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OF THE

# ADMINISTRATION OF JUSTICE

IN THE

BRITISH COLONIES

IN

THE EAST-INDIES.

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BY

JOHN MILLER, Esq.

OF LINCOLN'S-INN.

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## P R E F A C E.

As I should be sorry justly to subject myself to the imputation of interfering in matters with which I might be thought to have no concern, I am desirous to explain the manner in which I was led into the following discussion. A cause of considerable importance in which I was engaged about three years ago, and which was heard by the present Lord Chancellor, when Master of the Rolls, in the end of 1826, made it necessary for me to inquire more extensively than usually happens in the course of practice, into certain branches of Indian Law, and from Indian law I was induced by an easy transition, to look into the manner in which that law is administered in the various Courts established by the Company throughout their Indian empire. A circumstance of an entirely different nature, but to which it is not necessary more particularly to advert, led me afterwards, as leisure would allow, to prosecute a pursuit, which the character, number, and peculiar circumstances of our Indian fellow-subjects rendered in itself exceedingly attractive. The following pages are the result of this research. They have been drawn up in the form in which they now appear for a

considerable time past, but I felt so little inclination to force them into notice, that they probably would never have been laid before the public, had it not been for the intervention of some friends, to whose assistance I have throughout been deeply indebted, and whose partiality has induced them to believe that, in the present state of our Indian Colonies and the India Company, they might prove in some degree useful.

*Lincoln's-Inn, June 24th, 1824*

## ADMINISTRATION OF JUSTICE.

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NÖ part of history is more remarkable than that which records the origin and progress of the English colonies in the East. The unpretending objects for which they were first planted, the accumulated misfortunes which endangered their infancy, and the amazing vigour and rapidity with which they have since shot forth in every direction, all conspire to render the story of their fortunes more like a tale of fiction than a narrative of events which have really happened. But it is neither to the vicissitudes to which they have been exposed, nor the romantic valour by which they have been protected and extended, that they owe their strongest claim to our attention. The colossal power which we have there raised up is even more remarkable for the spirit by which it is animated, than the force which it exhibits. 'In its outward appearance it is no less absolute than the despotisms of Alexander, Genghis Khan, or Timur; while, in its practical operation, the civil and military chiefs by whom it is directed, are themselves vigilantly controled by the just and enlightened



sentiments of the parent state to which they belong. It is accordingly the vast and growing ascendancy which the vigour, intelligence, and integrity of our executive government have given us over all the natives of the East, which renders the history of our Indian colonies so peculiarly interesting and instructive. That the behaviour of our countrymen in that part of the world has frequently incurred merited disapprobation, no candid inquirer will deny: yet, when all due allowance has been made for these occasional deviations from rectitude and sound policy, I believe it will be acknowledged that the English, in their public and private capacity, have made, and are making, far greater efforts to promote the moral and political improvement of their Indian subjects, than ever entered into the contemplation of any race of Hindoo or Mahometan princes whose sovereignty they have superseded.

Whatever may have been the merit of the officers to whom the exercise of the sovereign power of the Company has been successively entrusted, when it is considered that its military operations only commenced in 1746, and its recognition as a territorial power did not take place till 1760, it is not to be expected that in the interval which has elapsed between that period and the present, that they could have devised a scheme of Government adequately suited to the several parts and exigencies of that now enormous empire. No  
individuals

individuals were ever called upon to act under more trying circumstances than those in which the Company's servants have been placed. They knew neither where to build up nor pull down; whom they ought to fear, or upon what they ought to rely; and at every step they took, they found new manners, customs, languages, and religions, the nature and properties of which they could not pretend to understand. The ignorance and error under which they then laboured, though now much diminished, has by no means wholly disappeared. There are still many important particulars relative to the soil and climate of the country with which we are but imperfectly acquainted; and many misapprehensions respecting the natives and their institutions, which have not yet been removed. Considering how strong a line of separation originally existed between them and us, this is not surprising. Europeans have hitherto expressed little regard or esteem for them; and religion, custom, and immediate interest lead them to shrink back from us. They neither eat nor drink with us. We know little of their domestic economy, nor of their habits and demeanour in private and familiar intercourse. Like those rivers which have been said not to mingle with the waters of the lakes through which they flow, the streams of Englishmen who are continually rolling through the East, have hitherto swept along like a superior order of beings in the narrow and

exclusive channels which they have marked out for themselves, without being either qualified or disposed to form an intimate acquaintance or connexion with any race or class of its inhabitants.

The East-India Company being obliged to legislate for its colonies under such disadvantages, we cannot greatly wonder that the successive regulations promulgated for their government should have, to a certain degree, proved both inadequate and inconsistent. These regulations apply chiefly to the four following points:—the executive government of the country;—the Company's commercial privilege;—its territorial revenue;—and the dispensation of justice.

The Company's *executive government in India*, whether consisting of soldiers or civilians, bears a closer resemblance to the force which is employed to maintain the military occupation of a conquered country, than to conduct the ordinary administration of a settled state. There are few records or precedents to consult, few acknowledged rights or privileges to interfere with the exercise of executive authority; and when cases of difficulty occur, the resolutions of those who deliberate are seldom impeded by the legal or constitutional doubts which embarrass the statesmen of the mother-country, when issuing directions for the guidance of its other dependencies. The executive authority in India, has, therefore, always been simple in its form and operation, and  
has

has less frequently been modified or discussed, than any of the other branches of Indian policy. The *commercial privileges* which the Company enjoy have been made the subject of much greater controversy than the executive government which the Company have established. It was as merchants they first adventured to the East—as merchants their first establishments in it were obtained—and it is against the successive inroads which have been made upon their monopoly as merchants, they have invariably struggled with the most determined perseverance. Notwithstanding this, the current of events has run so strongly against them, that the trade to China is now the only branch of commerce from which their fellow-subjects in England are now excluded; and if that should be opened, a complete termination will be put to their commercial monopolies. The subject of *revenue* is one to which a large proportion of the legislative ordinances of the India Company has been devoted, as it has in every other state; but this subject possesses so little interest in itself, and in order to be understood, requires such extensive and peculiar local knowledge, that neither the English public, nor the houses of parliament, have ever bestowed upon it that consideration, to which it has an unquestionable title. The last of the four great subjects of the Company's regulations, is the *administration of justice*. In our eastern possessions, the

the dispensation of justice has always been so blended with the collection of the revenue, that the limits of the two departments have never been definitively fixed, and those assigned to the one or the other have either been contracted or enlarged, according to the views of necessity or expediency which those in authority abroad and at home have successively adopted. Notwithstanding this circumstance, the administration of justice is a subject which admits of an entirely separate consideration, and as it yields to none of the others in interest or importance, and is perhaps even less studied or understood, the following observations shall be exclusively devoted to its examination.

Before adverting to those particulars respecting the judicial system established in India, which seem most to require elucidation and discussion, it may be proper to take a brief survey of the principal changes it has successively undergone. The Company's existence as a political power commenced about the year 1760. Whatever revolutions may take place among the native governments of India, it is an invariable maxim to intrust the same persons both with the management of the revenue and the administration of justice. As the Company did not at the outset interfere with this mode of proceeding, justice continued, for several years after its conquests began, to be administered throughout its Bengal possessions

possessions by means of the natives of the country.\* In 1766 Lord Clive, in his character of Governor-General, took his seat as Dewan, or collector of the revenue and supreme judge in civil causes, in a durbar held near Moorshedabad, while the Nabob sat in conjunction with him as Nazim, or as the authority exercising criminal jurisdiction.† In 1770 provincial councils, furnished with a certain number of inferior assistants, were established at Patna and Moorshedabad, to superintend the administration of justice and the collection of the revenue.‡ In consequence of the notorious abuses which are said to have prevailed under this system, a committee, consisting of Mr. Hastings, who was then Governor, together with four members of council, was appointed in 1772 by the Court of Directors, for the purpose of instituting a general inquiry into the administration of justice among the native inhabitants. The report drawn up by these gentlemen presents a detailed view of the police establishment and Mahometan law-courts then subsisting, and they were so impressed with the mischiefs arising from the tediousness of the existing system of procedure, that they declared, “the consequences  
“are, in many cases, more ruinous than any  
“arbitrary

\* Grant's History of the India Company, p. 327; Leith's Judicial System of India, p. 1; Harrington's Analysis, vol. i. p. 7.

† Leith, p. 2.

‡ Harrington, vol. i. p. 8; Leith, p. 2.

“arbitrary decision could be, if passed without any law or process whatsoever.”\* In 1773, a further change in the administration of justice in Bengal was effected. The administration of criminal justice still continued nominally in the hands of the native officers; but the supreme criminal court, called the Nizamut Adawlut, was transferred to Calcutta, and the system, though not directly regulated by the Company, was put under its superintendence and control. The administration of justice in civil causes was taken out of the hands of the natives altogether, and the supreme civil court, called the Sudder Dewannee Adawlut, was transferred to Calcutta also. The judges in the court of Sudder Dewannee Adawlut then consisted of the Governor and Council, assisted by native officers learned in the law of the country. The judges in the inferior courts throughout the Company’s territory, consisted of the collector or Company’s chief European civil servant in each district or collectorship, aided by certain native officers.† In consequence of a change in the civil government of the Company, the district collectors were afterwards superseded by provincial collectors, and in 1780 provincial collectors gave place to provincial courts of Dewannee Adawlut, in which those who sat as judges did not sit as members of the provincial councils

\* Leith, pp. 4 and 5.

† Grant’s History of the East-India Company, p. 327

councils. In the same year the Governor and Council ceased to sit in the Sudder Dewannee Adawlut or supreme civil native court, and justice was for the first time dispensed in that court by a regularly educated European judge. The Governor and Council resumed their judicial functions in 1781, but again abdicated them in 1782, when Sir Elijah Impey, who was then at the head of the recently established supreme King's court in Calcutta, was created superintendant of the Sudder Dewannee Adawlut also. The regulations, however, which were prepared or promulgated by him were found so technical and oppressive, that his appointment was quashed before the end of the year in which it had been sanctioned. In 1790, the Nabob formally surrendered the administration of criminal justice, as he had previously done that of civil justice, to the Company, and in 1793 Lord Cornwallis's plan for effecting a complete separation between the judicial and financial service of the Company was carried into execution. The duties of the judges were thenceforward confined to the distribution of justice alone, and a regular gradation of courts of appeal was then for the first time instituted. The lowest of this series was the court of Native Commissioners, for determining suits where the cause of action did not exceed fifty rupees in amount. The next in order were the Zillah courts, consisting of a single European judge. Next to these,

in



in the ascending scale, came the Provincial Courts of Appeal, consisting of three European judges, a certain number of which were established in the four provinces of Bengal, Bahar, Orissa, and Benares: and over all was placed the court of Sudder Dewannee Adawlut, in which the Governor and Council presided as judges in the last resort.\* From the Sudder Adawlut there lay, in all cases above the value of £5,000, an appeal to the King in council, as there does from all the other colonies of the mother-country.

This was the arrangement then made for Bengal, which has since been extended, under such modifications as circumstances rendered necessary, to the two other presidencies of Madras and Bombay. Courts of civil judicature were first partially established in the presidency of Madras in 1802, and courts of criminal jurisprudence in the year following. From the year 1768 to this last period, no criminal judicature was known in that part of India, except that which was exercised in some of the villages, or by the local zemindars. Circuit courts were also first appointed in the same presidency in 1803, and a certain number of Zillah courts were spread over the whole country in 1806 and 1807.† In the presidency of Bombay the system is still more imperfectly

\* Leith, p. 296.

† Selection of Judicial Papers, printed by the East-India Company, pp. 159, 391, and 392.

imperfectly organized than at Madras. It has been observed by Colonel Walker, that extreme difficulty has been found in introducing our judicial regulations among the insubordinate and uncivilised tribes of that district. "These people," he says, "have acknowledged the superiority of the Company's government: they have allowed us to collect the revenues of their country, but violent insurrections and obstinate wars have been the consequence of an attempt to impose upon them our judicial administration. This part of their ancient system seems to have been dearer to them than their property and independence."\* Zillah courts, for the determination of civil causes, were, however, established at Salsette in 1799, at Surat in 1800, and have, since 1805, been extended to Broach, Kaira, Ahmedabad, and, perhaps, one or two other stations. Provincial or circuit courts for civil, and Foujdarry courts for criminal business, have also been established, but how many in number, and at what places, I have not been able to ascertain.†

At the present time justice is administered in India by means of two distinct and independent sets of tribunals—the King's courts—and the courts of the Company. Before the institution of the King's courts, their place was supplied by a court

\* Selection of Judicial Papers, printed by the East-India Company, p. 179.

† Mills' History of India, vol. iii. p. 17. 8vo. ed.

court consisting of the mayor and nine aldermen, established at each of the three presidencies of Calcutta, Madras, and Bombay, which was empowered to try all civil causes between Europeans, subject to an appeal to the King in council; and a court of quarter-sessions, which tried all Europeans charged with any criminal offence, except that of high treason.\* The King's courts now existing in the Company's continental dominions are three in number; one established at Calcutta in 1775, for the presidency of Bengal; another in 1801 at Madras, for the Madras presidency; and another at Bombay, for the third presidency, in 1823. Each of these courts consists of a chief-justice and two puisne judges, and has jurisdiction within a circle of a few miles round the place where it is established, in all civil causes, whether the parties be Europeans or natives. Each has also jurisdiction in all criminal causes whatsoever, where the persons accused are European British subjects. European aliens residing beyond the limits of the King's courts are amenable to the Company's courts in their criminal jurisdiction. The European British subjects must be tried by the court established in that presidency within which the offence may happen to be committed. In all cases, both of a civil and criminal nature, both the judgment and procedure are as strictly in

\* Selection of Judicial Papers, printed by the East-India Company, p. 191.

in accordance with the law of England as the circumstances of the country will admit; but in matters of inheritance, succession, and contract, the King's courts are bound to administer justice to the natives according to the law of the country. In all civil causes, where European aliens are concerned, which are not within the precincts of Calcutta, Bombay, or Madras, justice is administered by the courts of the Company. Till the act of 53 Geo. III., c. 155, sect. 107, no British subject could be sued in a provincial court. By that act they were declared amenable to the provincial courts, in certain cases, with a power of appeal to the supreme court or *Sudder Adawlut*. Of the King's courts in India no notice shall be hereafter taken, as an abundantly wide field for survey presents itself in the tribunals over which the Company itself has absolute control.

In order to complete this preliminary sketch of the manner in which justice is dispensed in India, by the four classes of courts which have been enumerated, *viz.* the courts of native commissioners, the *zillah* courts, the provincial courts, and the supreme courts of appeal; it may be fit to give some account of the number of each of these courts which now exists, and the extent of the jurisdiction with which they are intrusted. The native judges in civil causes in the presidency of Bengal are called *Aumeens*, or *Sudder Aumeens*, *i. e.* referees; *Salisan*, *i. e.* arbitrators; or *Moon-*  
sifs,

*sifs*, i. e. native justices.\* Their number does not appear to be exactly ascertained. In the judicial letter of the Court of Directors, dated the 8th of December, 1824, sent to Bengal, they are considered as amounting to eight hundred; but a late intelligent writer supposes they may amount to double the number.† In the presidency of Madras there are no fewer than five species of native courts—the Sudder Aumeens, the old native commissioners who are now the district moonsifs, the district punchayets, or courts of arbitration, the village punchayets, and, last of all, the village moonsifs, the number of which ought to correspond with the number of the villages throughout the presidency, which are computed to amount to fifty thousand.‡ Of these classes of courts, those of the district moonsifs alone possess any degree of efficiency, and the number which it may be necessary to appoint to each zillah has been left to the discretion of the local authorities.§ In the presidency of Bombay it is believed no regular native courts exist. The great augmentation of territory which that presidency has lately received, has, together with other circumstances,

\* Harrington, vol. i. p. 90.

† Major Galloway's Observations on the Law and Constitution of India. London, 1825, p. 330.

‡ Mr. Fullerton's Memoir, in Judicial and Revenue Selections, vol. iv. p. 46.

§ Judicial Letter of the Court of Directors to Madras, April 11, 1826, printed in Jud. and Rev. Selections, vol. iv. p. 95.

circumstances, induced its executive officers to take the whole system of the administration of justice into consideration, and they are now endeavouring to make the natives in Bombay execute those judicial functions for themselves by means of punchayet or arbitration, which are discharged by regular courts in the presidencies of Bengal and Madras. In Bengal the jurisdiction of the native courts now extends to five hundred rupees,\* and in all cases there is an appeal from them to the zillah courts.† In Madras the jurisdiction of the district moonsifs now extends to five hundred rupees, and that of the Sudder Aumeens to seven hundred and fifty.‡ It is not known whether or not the sum to which the jurisdiction of the punchayets extends in Bombay has been definitely settled.

The zillah courts, under which head may also be included the courts of the assistant zillah judges, and of the register who is a referee for the adjudication of small debts,§ are the next in the ascending series; and these have frequently been increased or reduced in number in each of the three presidencies, according to the extension of their respective limits, or the alterations which the system of judicature has undergone. There are

\* Judicial and Rev. Sel. vol. iv. p. 34.

† Harrington's Analysis, vol. i. p. 24, 96.

‡ Judicial and Revenue Sel. vol. iv. p. 30.

§ Harrington, p. 82 and seq., ed. 1821.

are at present forty-two zillah courts in Bengal, thirteen or fourteen in Madras, and six or seven in Bombay. In Bengal the zillah judges had originally jurisdiction in civil causes to any amount. In 1808 it was restricted to five thousand rupces, and in 1817 it was extended to ten thousand.\* But causes where the matter in dispute is below a certain number of rupces, may be referred by them to their registers, and to the native commissioners. The principle of the judicial administration in India, always admits one appeal from the inferior court to that which is next above it. This appeal is a matter of right. A second appeal from the judgment of the court appealed to may be presented to the court next higher in order. This is called in the Indian regulations a "special appeal," because it cannot be demanded of right, but is granted by the court under special circumstances. This outline of the jurisdiction of the zillah courts in Bengal applies, with slight variations, to those of Madras and Bombay. In each zillah court there is only one judge, and usually only one register, though two registers are sometimes appointed if the press of business demands it.

The provincial courts are the third in rank, and there are six of them in the presidency of Bengal, and four in that of Madras. There are none in  
Bombay.

\* Harrington, p. 36, note.

**Bombay.** Causes in that presidency are carried immediately from the zillah courts to the court of appeal at Surat, which is there the court of last resort. Those courts which during the greater part of the year sit as provincial courts in their civil capacity, also act as circuit courts, with reference to criminal jurisdiction. Their circuits are half-yearly. One judge at a time, in rotation, is on circuit for the trial of heinous offenders, and holds the sessions at the zillah court stations. The others remain at the various zillah stations to hear civil causes, with which one judge alone could not proceed.\* The junior judges of each court when on circuit divide between them, according to certain settled rules, the points they are respectively to visit, or at which they are to meet; and the senior judge, who does not go any part of the circuit, remains at the provincial station to transact the routine business of the court.† The duty of the provincial courts when at their proper station, is to hear appeals from the decisions of the zillah courts in civil causes. They have also original jurisdiction in all causes above ten thousand rupees, which cannot be tried in the zillah courts. The Bengal provincial courts have four judges each. The order of proceeding on their circuits has been repeatedly changed, but  
no

\* Harrington's Analysis, p. 421, ed. 1821.

† Ibid. vol. i. p. 106.



no civil causes are then tried. There are three judges in each of those of Madras. When the junior judges have finished the circuit, they return to dispose of that part of the civil business at their own stations, where their presence is indispensably necessary. When the sentence of the court in criminal cases is capital, or where it awards punishment beyond a defined period, and also in certain other cases which require the sanction of the Nizamut Adawlut at Calcutta, and the Foujdarry at Madras (the supreme criminal tribunals at those places), the punishment is not inflicted till the opinion of the superior court is known. All causes above the value of 10,000 rupees, or about £1,200 in Bengal, and 5,000 rupees, or £600 in Madras, must now be originally instituted in the provincial courts, and all suits special referred to them by the Governor-general, or court of Sudder Dewannee Adawlut at Calcutta.\*

From the provincial courts in Bengal and Madras, an appeal lies to the courts of Sudder Dewannee Adawlut, established in the two cities of Calcutta and Madras, in all original cases of personal property where the cause of action exceeds 5,000 rupees in the one presidency, and 10,000 in the other; but where real property is in question, this value differs in amount according to

\* Harrington's Analysis, vol. i. p. 590, and vol. i. p. 123.

to its nature and tenure. The courts of **Sudder Adawlut** are also authorized to assume jurisdiction in certain special cases where they may think fit.\* The same persons who sit as civil judges in the **Sudder Adawlut**, sit also as criminal judges in the courts of **Nizamut Adawlut** and **Foujdarry Adawlut**, and to these supreme criminal courts the whole record of the trial which has taken place before the provincial court is transmitted. The judgment of the courts of **Nizamut Adawlut** and **Foujdarry Adawlut** is generally final, but where the punishment is capital, or the court has no power to modify its severity, the court may recommend the criminal to the executive government, either for the mitigation or remission of the sentence. Where the punishment infers the forfeiture of land or lease, it must be submitted to the government in all cases, without exception.†

All the judges and registrars in the **zillah**, provincial, and supreme civil and criminal courts are Europeans, and they are furnished with such a supply of **Hindoo** and **Mahometan** *cauzees*, *muf-tis*, and *pundits*, as circumstances may require. It may be proper to observe, that from all these courts, in the presidency of **Bengal**, in all causes  
above

\* Harrington's Analysis, vol. 1. pp. 125-128.

† Grant's Expediency of continuing the Present India System, 1813, p. 84 and 85.

above £5,000 there lies a final appeal to the Privy Council in England. This limitation, which was imposed in Bengal on the first establishment of the judicial system, has through inadvertence not been made applicable to Madras or Bombay, on the extension of the judicial system to those presidencies, so that in them an appeal now lies to the King in Council from every final judgment, however trifling the nature or value of the matter in dispute may be.

Whether it would be most advisable that this ultimate appeal from each of the three presidencies to the King in Council should continue, or that a general court of final resort should be established in some part of our Indian territory itself, is a question of great moment in itself, and upon which some difference of opinion is said to prevail. I have no hesitation to acknowledge, that so far as I am capable of forming an opinion, it would be better, both for the colonists and the mother country, that the court of ultimate appeal should continue fixed as it now is in England, than that it should be superseded by the establishment of a new tribunal in any part of India.

Two of the chief objects to be attended to in any system of appeal are, that causes should be heard in the court of appeal with as little delay, and at as moderate expense as possible. In both of these respects, I believe, the Privy Council either is, or could easily be rendered, as desirable

a tribunal as any which could be created. If the present sittings of the Privy Council are so few, that the business of the court cannot be adequately dispatched, or the other avocations of the distinguished persons who now act as judges will not allow them to attend there more frequently, these defects ought certainly to be remedied; but under such modifications as it appears practicable to introduce, no reason presents itself why causes should not be heard as expeditiously, and certainly at as little cost in the Privy Council, as under any new tribunal they could be in India. It is alleged, however, that the establishment of a court of last resort in India would, at least, save the delay of the voyage out and back, and that the judges who sat in it would necessarily possess an acquaintance with local manners and institutions, which is of the utmost value in the decision of causes, and of which the judges who sit in the Privy Council must almost unavoidably be ignorant. It is, no doubt, proper that these circumstances should be taken into view, but when fairly considered, they will not, perhaps, be thought to be of as much importance as has sometimes been imagined. The delay of the voyage out and home could not together be reasonably calculated to exceed twelve months; and though that addition to the anxiety of suitors is much to be regretted, yet considering the delay which will in most cases of appeal have previously taken place,

place, and the difficult nature of the questions at issue, the lapse of a single year will not be deemed a circumstance to which much importance ought to be attached. Familiarity with the manners, laws, and customs of the country, are unquestionably primary qualifications in a judge, and it cannot be denied that causes are likely to be decided occasionally by those who preside in the Privy Council in England, in a less satisfactory and technical manner, than if they had been sitting in the midst of the people whose rights and privileges they were called upon to determine. It will be recollected, however, that there are always a certain number of retired Indian judges in this country, who are well qualified to afford the local information alluded to, and whose presence might be either invited or secured during the hearing of all Indian causes. It is also well known to those who are conversant with appeals which are brought from any part of the empire to the Privy Council or the House of Lords, that the points at issue between the parties have been so simplified and elucidated by the pleadings and arguments which have previously taken place, that much less expertness in mere matters of local practice is necessary than might at first sight be supposed; while the facts of the case or the principles of law by which the decision of the judge ought to be guided, are examined and applied with more calmness and correctness than they would have

have been upon the spot from which the appeal has been transmitted.

The consideration, however, which principally weighs with me is, that the causes which come before the Privy Council are likely to be argued and decided there with greater industry and ability than they would be in any other quarter. Giving full credit to the lawyers who might proceed to India or spring up in it for the talents they may be found to display, and supposing the most ample remuneration to be afforded to those who might be there elevated to the bench, there seems nothing in the climate, society, or circumstances of India to lead one to conclude, that causes would there generally meet with the same close investigation, either from barristers or judges, which they do in England. If this fact be so, it seems of itself decisive against the establishment of a tribunal of the last resort in any of our eastern colonies. However great the advantages of a local court might be, they never could counterbalance the inferiority of its judgments, either in the eyes of Europeans or of the native population.

Political considerations decidedly point to the same conclusion to which the interest of the suitors seems to lead. No sort of connexion can be named, which tends more effectually to bind a colony to the mother country, than a conviction that in all emergencies they can rely upon it for a prompt,

prompt, impartial, and enlightened administration of justice. In the case of India, where the distance is so great, where manners and religion so widely vary, and where the administration of justice is universally regarded as so inalienable an attribute of supreme power, this would be peculiarly felt. If India should ever cease to look to England as its supreme judge, it would gradually cease to respect it as its sovereign, and the establishment there of a tribunal of ultimate appeal, could be regarded in no other light than as the first step towards a termination of its political dependence. Whatever may be thought of the expediency of promoting this object hereafter, it is not likely to meet with much encouragement at present, nor to augur favourably for the immediate advancement of India, either in government or law.

It is now time to return to the main purpose of the following observations, to which this sketch of the system of judicature, which is now followed in the Company's dominions in Hindostan, was intended as an introduction. That purpose is, to promote a temperate and general investigation into the manner in which justice has been hitherto dispensed by the Company to the vast population subject to its control, and into the practicability of making further improvement, both in the law and its administration. The subject is of no ordinary moment to the government of England, as well as to the East-India Company and its officers; and, in  
order

order to avoid that vague and boundless discussion in which those who engage in questions of Indian policy are so often bewildered, the attention of the reader shall be confined to the six following points:—the expediency of preparing a digest of law for the different portions of the Company’s territories—of raising the qualifications of the European judges—of intrusting a larger portion of the administration of justice to the natives—of diminishing the stages of appeal—of introducing the trial by jury—and extending the use of the English language in judicial proceedings.

I. Whoever desires to form a correct judgment upon the first of these subjects must be prepared to examine it upon its own merits, and not come prepossessed with an opinion for or against the measure, according as he may be favourably or unfavourably disposed towards a consolidation of the laws of England. Except that both of these questions relate to law, and both happen to be in some degree under discussion at the same moment, they have in reality no connexion with each other. Whether a consolidation of the law which is dispensed in any country be practicable or desirable, must wholly depend upon the circumstances of each particular case ; and before it can be decided whether a consolidation of the laws of Hindostan ought to be attempted or not, it is essentially necessary to know what that law is, by what records,



records, and what class of officers, its rules and application are determined.

It is universally admitted that the criminal law, which has been applied to all persons and places throughout Hindostan, is the Mahometan; but great doubt has been entertained how far it suits the condition of the Hindoos and other tribes over whom its influence extends. The Mussulmans imposed it wherever their conquests extended, and it was received throughout almost every part of India upwards of two centuries ago. Of its merits widely different sentiments have been entertained. By some, it is enthusiastically admired; others think that, with the additions and corrections it has received from the English, it is well adapted to the circumstances of the people by whom it is obeyed; while a third class of inquirers avow their belief that it would have been more advisable to have abrogated it altogether, and substituted an entirely new system in its stead. In the first class we may rank Major Galloway, who has eulogized it with a degree of enthusiasm which one has great difficulty in believing not to be excessive.\* Mr. Falconer, who as chief secretary to government had excellent opportunities, from its records and correspondence, of ascertaining all that the government itself knew of the effect

\* Observations on the Law and Constitution of India, p. 245, *et seq.*

effect of the judicial system, may be placed in the second. He expresses himself respecting it in terms of moderate but decided approbation, and implies that it could not now be conveniently superseded. In allusion to its distinct promulgation throughout the presidency of Madras, he observes—

“ After the most deliberate discussion of this highly-interesting question, with a conscientious impression of the deep interests it embraced, it was determined by the ruling authorities, that, in the criminal jurisdiction, as the ordinances of Mahomed had for ages been the general standard of decision for Hindoos as well as Mahomedans, it was the wiser and safer policy to continue and improve that law still existing, and sanctioned by immemorial prescription, than to revive the obsolete code of Hindoo criminal law, ill-adapted, indeed, to the actual state of society, and which had been for centuries exploded. It was admitted that the Mussulman code was, in many instances, defective and irrational; but, in all such cases, it was the prudent determination, and it has accordingly been the diligent care of the British local government, to amend and provide by such expedients as supplied a remedy, without encroaching on the revenue, or alarming the predilection of the people for their own law.”\*

The

\* Revenue and Judicial Selections, vol. ii. p. 139.

The third class of authorities speak of it with less reserve, and maintain that, in consequence of the prejudices entertained against it by the Hindoos, and its own evident defects, it would have been better either to have altered it more effectually than we have done, or to have abolished it at once and provided another in its room.\* One of its peculiarities consists in the total rejection of the testimony of women; and as women are, in the case of many crimes, alleged to be the only witnesses, especially in *decoity* or gang robbery, which is admitted to be the most prevalent and dangerous criminal offence known in the presidency of Bengal, whatever circuitous means may be taken to render such testimony available, that defect alone must materially detract from the utility of the whole system.† In addition to this, Mr. Fortescue, who was officiating judge at Benares, informs us that its provisions are utterly unknown to the body of the people who are subject to its authority. “As to the Hindoos,” he says, “not one in a thousand of their pundits (domestic teachers, or learned men) can read Persian, much less Arabic; and, added to this, when these persons would consider it a defilement to peruse  
“ the

\* Revenue and Judicial Selections, vol. ii. pp. 12, 21, 101, 174, and 201.

† Tytler on India, vol. ii. pp. 153, 159.

“ the books wherein alone the law can be found,  
 “ it is easy to credit the fact, that the whole  
 “ Hindoo race has been, and ever will continue,  
 “ ignorant of those rules which determine their  
 “ liberty and existence.”\*

Though it should be allowed that the sentiments here expressed are pushed to an extreme extent, yet it cannot be denied that they receive considerable countenance from the observations both of Sir R. Dick and General Leith; and if the testimony of the latter of these gentlemen is to be relied upon, the Mahomedan criminal law ought, both in justice and expediency, to have been long ago abolished. Sir R. Dick says—  
 “ That the existing laws having not yet obtain-  
 “ ed the extended benefits naturally expected to  
 “ result from them, may be partly owing to their  
 “ being so little known throughout the interior  
 “ and remote parts of the several districts. He  
 “ conceives the partial admission in criminal cases  
 “ of the Mahomedan law, to the entire exclusion  
 “ of the Hindoo penal code, as not calculated to  
 “ reform our Hindoo subjects, with whom a strict  
 “ adherence to their own established customs is so  
 “ essential in regulating their domestic habits, as  
 “ well as their moral conduct, and much less  
 “ likely

\* Letter from Mr. Fortescue to Chief-Secretary Bayley, dated Feb. 17, 1816—quoted in Malcolm's History of India, vol. ii. p. 146.

“ likely to reconcile them to the government of a  
 “ Christian power. He does not implicitly sub-  
 “ scribe to the expediency, and still less to the  
 “ justice, of our Hindoo subjects being less en-  
 “ titled to the benefit of their own laws than the  
 “ Mussulmans, whom they unquestionably excel  
 “ in every point of morality and acknowledged  
 “ fidelity to our government.”\*

“ Some material alterations,” says General  
 Leith, “ have been made in the criminal law  
 “ which we adopted from the Mahomedans, be-  
 “ cause we found it the law of the country where  
 “ there existed any: for on the coast of Coro-  
 “ mandel the punishment of crimes by any form  
 “ of public trial had been long disused, except in  
 “ the factories immediately subject to the British  
 “ government. It cannot be regarded but as a  
 “ barbarous and defective system, and many per-  
 “ sons have thought that it might have been bet-  
 “ ter to have rejected it altogether, and to have  
 “ adopted the English criminal law at once, with  
 “ some peculiar modifications. We have, how-  
 “ ever, done what is nearly equivalent: we have  
 “ modified the Mahomedan law upon the Eng-  
 “ lish, so that it is now stripped of most of its  
 “ absurdities and cruelty.”†

So

\* Parliamentary Papers laid before the House of Commons,  
 1819, p. 70

† See also Marquis of Hastings, in Papers laid before Par-  
 lament in 1819.

So much for the criminal law which prevails in India. Let us now turn to the civil. Here the Mahomedan law is in force also, provided both parties be Mahomedans ; although that code must of necessity be inadequate to the exigencies of the people whom it now governs. The laws which sufficed for the rude tribes which wandered through the deserts of Arabia, must be utterly insufficient to decide the multiplied questions which spring up among their civilized descendants who are now settled in the fertile plains of Hindostan. The rules of the Koran respecting wills, in particular, are said to be so exceedingly inconvenient, that it is scarcely possible to carry into execution the will of a Mahomedan who has died possessed of property, without one or more suits being instituted for its distribution.\* This defect in itself is of such extensive and important influence, that some attempt ought to be made to remove it. In all cases, except where both parties are Mahomedans, the Hindoo civil law is followed, subject to those changes which the regulations promulgated by the Company have made upon it. That the Hindoo law has long been in a more advanced state than the Mahomedan, will become manifest from the slightest examination of the Institutes of Menu, translated by Sir William Jones,

\* Judicial and Revenue Selections, vol. ii, p. 7.

Jones,\* or of the two celebrated treatises on the Hindoo Law of Inheritance, translated by Mr. Colebrooke.† At whatever era the institutes of Menu may have been really written, they could have been composed only among a people who had made considerable progress in wealth and refinement. At the same time, in all the expositions of Hindoo law which I have had an opportunity of consulting, law is so interwoven with religion, and even in the statement of general or particular legal doctrines themselves there is such a mixture of wisdom, absurdity, and harshness—such perplexing subtilty and minuteness—and yet such an absence of clear and positive authority on numerous and important subjects, that no complete or practical system seems ever to have been known or acknowledged, and the judgment to be given seems too often to have remained entirely in the discretion of the priests by whom the administration of justice was conducted. “If it be asked,” say the institutes of Menu, “how the law shall be ascertained when particular cases are not comprised under any of the general rules, the answer is this, That which well-instructed

\* Institutes of Hindu Law, or the Ordinances of Menu, translated by Sir William Jones.

† Dāya Bhāga and Mitāścharā.

“structed Brahmins propound shall be held in-  
 “contestable law.”\* It has even been doubted  
 whether most of the laws that now remain in  
 Hindostan be not rather of Mahomedan than Hin-  
 doo origin;† and though their Hindoo origin be  
 admitted, it is impossible to ascertain to what  
 extent they ever did prevail throughout the coun-  
 try, what local modifications they subsequently  
 received, and how many of them are still in actual  
 observance. So much uncertainty and obscurity  
 prevail on these points, that the Directors them-  
 selves have been unable to avoid misapprehension.  
 The 2d and 3d of the thirteen judicial questions  
 circulated by them in 1813 among some of their  
 best-informed servants, are couched in the follow-  
 ing words:—“Do you conceive that any system  
 “of Hindoo institution could now, either in whole  
 “or in part, be with advantage substituted for the  
 “system, or any part of the system, introduced  
 “by the British Government? Can you state  
 “any particulars of the remains yet subsisting of  
 “ancient Hindoo judicial institutions in Bengal,  
 “particularly the system of Village Courts, and  
 “decision of Panchayets?”

The greater part of the twenty-four gentlemen  
 whose replies to these questions the Directors  
 have

\* Institutes of Menu, ch. 12, sect. 108.

† Galloway on the Law and Constitution of India, *passim*.



have printed, express surprise that they should ever have been put; and all of them agree, that any re-establishment of Hindoo laws and institutions is impossible, and, though it were possible, would be inexpedient. Their testimony sufficiently shows, that certain usages and traditions remain the objects of popular veneration in India, as the laws of Edward the Confessor once were in England: but that no satisfactory details can be obtained respecting them, and that they have long lost the force of existing laws, if ever they possessed it. Sir Henry Strachey, the comprehensiveness and precision of whose evidence is so remarkable on all occasions on which it has been given, in answer to part of the 2d question, expresses himself thus:—" I am not, I  
" fear, sufficiently acquainted with any sys-  
" tem of ancient Hindoo institution, to judge  
" of the expediency or practicability of its  
" being substituted, in whole or part, for ours.  
" I must, I suppose, impute to this my imperfect  
" acquaintance with the subject, the sentiment  
" of surprise which, I confess, I entertain at the  
" suggestion of substituting the ancient Hindoo  
" institutions for our judicial system in Bengal.  
" To revive laws which have either been abolished  
" or become obsolete, many centuries before we  
" introduced our own changes—this, though prac-  
" ticable, would be a great innovation, and would,  
" I

“ I believe, he doing violence to the feelings  
“ of the natives themselves.”

His reply to the 3d question is still more pertinent to the present purpose :—“ I do not  
“ recollect any remains of ancient Hindoo judicial institution— not even the Panchayet.  
“ But the term being well known in Bengal,  
“ it is probable that the thing exists in some  
“ parts of the Bengal provinces, and that it  
“ is occasionally resorted to voluntarily by the  
“ Hindoos, in disputes concerning caste, and  
“ perhaps in matters of village accounts and  
“ boundary disputes. I remember no instance  
“ of parties in a suit proposing a reference to the  
“ Panchayet. Should the parties agree, no objection, I conceive, would be made to such reference. Our civil courts never discourage any  
“ kind of arbitration: they constantly recommend it to the parties, who will hardly ever  
“ agree to it. The Hindoo laws known to us  
“ are contained in the two books which are deposited in the Dewannee Adawlut, or civil court  
“ of every district in Bengal; the Digest compiled by some Brahmins, and translated by  
“ Mr. Colebrooke; and the Hindoo Institutes, or Ordinances of Menu, translated by Sir William Jones. There they lie, as ornaments upon  
“ the table, but are of little or no use. I have  
“ examined those books as matters of curiosity,  
“ but

" but was not in the habit of consulting them with  
 " a view to throw light upon a doubtful point, or  
 " to gather from them rules of practice. In  
 " truth, to my judgment, they seem little more  
 " than a mass of priestcraft and folly. How then,  
 " it will be asked, do we administer the Hin-  
 " doo law? We do not, strictly speaking, admi-  
 " nister the Hindoo law in Bengal. In suits con-  
 " cerning caste, marriage, or inheritance, the  
 " parties sometimes appeal to the Hindoo law,  
 " and demand a *bevashta*, or exposition from the  
 " Pundit. Then we consult the Pundit, and if  
 " his opinion is a clear one, and uncontradicted,  
 " which seldom happens, we found our decision  
 " upon it."\*

" We have preserved," declares Mr. Erskine,  
 " to the natives of India their own laws, in  
 " all cases relating to succession, inheritance,  
 " marriage, caste, and other religious usages and  
 " institutions; but in matters of contract, the  
 " judges are regulated in their decisions by the  
 " general maxims of justice and equity."†

" It is proper," says General Leith, in his His-  
 " tory of the Judicial System, " here to explain a  
 " point not very generally understood in England.  
 " No new body of laws has been created for the  
 " people of India: certain rules have only been  
 " given

\* Judicial and Revenue Selections, vol. ii. p. 52.

† Ibid. p. 85.

“ given for the administration of their own laws.  
 “ This is a distinction which ought always to be  
 “ borne in mind. In the criminal law, some altera-  
 “ tions have been made, in order to soften the  
 “ severity of the Mahomedan code, and some laws  
 “ established as to property derived immediately  
 “ from the English Government. The great  
 “ body of the judicial code consists of rules for  
 “ the more speedy hearing and determining suits  
 “ in the courts. The above may be given as the  
 “ outline of the system established by Lord Corn-  
 “ wallis in 1793. If its progress is to be traced  
 “ in the code itself, several volumes must be pe-  
 “ rused before an analysis of it can be given :  
 “ every year has produced new regulations, and  
 “ changes upon changes have been multiplied, and  
 “ are now multiplying, without apparent end.”\*

“ If it were a rational, and comprehensive, and  
 “ well-defined system of jurisprudence,” says  
 Colonel Stewart, “ that we administered, the evil  
 “ might not be so great ; but it is to the Maho-  
 “ medan and Hindoo law, whose vague and  
 “ uncertain provisions are susceptible of intermi-  
 “ nable cavils, and where the latitude of applica-  
 “ tion on the part of the judge is the only chance  
 “ of making the enactment a measure of justice  
 “ at all adequate to the cases that occur, that we  
 “ have attained all these technicalities. Of the  
 “ old

\* History of the Judicial, or Adawlut System, p. 36.

“old governments it might be said *quæ usu obtinuerunt, si non bona at saltem apta inter se sunt*, but probably under no government, since the world began, were such monstrous incongruities ever united as in that of our East-India provinces. If it should be inquired *how* they are united, the answer is at hand—by the only means by which such an union was possible—by the influence of an army of an hundred and sixty thousand men.”\*

“Of the matter contained in the several volumes of the Regulations,” says Leith, “not one-tenth part is perhaps efficient, the rest consisting of regulations which have been rescinded—of repetitions, of rules, and of explanatory matter. The naked enacting-law, if stripped of its superfluities, would be contained in a very narrow compass.”†

It appears from these authorities, to which any number might easily be added, that the civil and criminal laws which we found in the country have not been so religiously respected as has sometimes been imagined. We have corrected the criminal law, and altered and enlarged the civil: and some of these alterations relate to matters respecting which the natives are supposed to be peculiarly jealous of any interference. We have discounte-

nanced

\* Considerations on the Policy of the Government of India, p. 75.

† Leith, p. 90.

nanced and suppressed the trial by ordeal; the punishment for witchcraft; the practice of infanticide; the offering of infants to the waters of the Ganges; the destruction of male and female children prevalent among a high class of Hindoos at Benares, and still more generally among the Hindoos of Guzzerat; and the practice, not unfrequent among the Brahmins, of wounding or murdering their children, or of sacrificing them upon the pile called the Koor. Some persons, and among them officers of the highest rank and character in the Company's service, both at home and abroad, have entertained views of still wider reformation. Mr. Elphinstone, the late Governor of Bombay, considers himself at liberty to introduce any improvements into the laws of his presidency which the received principles of reason and justice may authorize, regard being always had to the situation of the country and the people;\* and Mr. Tucker, now one of the Directors, has avowed the same sentiments still more distinctly.

“ It has been said,” he observes, “ and very  
 “ justly I admit, that the natives of India are  
 “ attached to their usages and institutions; but  
 “ they are an intelligent people, and although  
 “ they may be incommoded by the forms and  
 “ processes of our courts, to which they are not  
 “ yet familiarized, they are fully sensible of the  
 “ value of British protection, and it is impossible  
 “ to

\* Judicial and Revenue Selections, vol. iv. p. 186.

" to believe that they can be attached to the state  
 " of anarchy described in the foregoing extract."\*  
 And afterwards: " Will it be contended that we  
 " ought not to have written laws? That we ought  
 " not to have courts of justice to administer and  
 " enforce those laws? Or that the people of  
 " England are so ignorant of general principles,  
 " have made such slight advances in knowledge  
 " and the science of legislation, as to be incapable  
 " of improving the institutions and jurisprudence  
 " of India, in which *revenue, religion, and law*, all  
 " take their places together, with scarcely a line  
 " of demarcation between them. Simple, suitable,  
 " and sufficient as these institutions are represent-  
 " ed to be, they are not all alike entitled to our  
 " admiration and support; and although they  
 " ought not in any case to be hastily subverted,  
 " they must be accommodated to the altered con-  
 " dition of the people and the peculiar situation  
 " of their rulers; and it should be the study of  
 " the government, as it unquestionably is its duty,  
 " to give to its native subjects, not merely the  
 " most perfect institutions which may be compa-  
 " rable with the existing state of society among  
 " them, but to model those institutions in such a  
 " manner, that they may operate towards improv-  
 " ing the moral, intellectual, and social condition  
 " of the people of India."†

This

\* Tucker, p. 155.

† Ibid. p. 162.

This reasoning will not easily admit of a satisfactory refutation. It is certainly true that many measures have been adopted in India with too much precipitation, and that it requires great local knowledge, judgment, and experience, to determine what changes ought to be made, combined with the utmost circumspection in carrying them into execution. But, on the other hand, some European functionaries have expressed a degree of alarm at every kind of alteration, which no person of sober understanding can deny to be excessive; and have struggled for the retention or revival of some native customs and institutions, with a waywardness and obstinacy now demonstrated to be absurd. When we reflect upon that superiority in the art of government which we are now admitted to possess over most of the civilized nations of Europe, and which will be confessed to be still more decided over that of the native princes of Hindostan, it is almost impossible to believe but that the servants of the Company must be qualified to suggest various changes in its civil and criminal law, which would materially advance the private happiness and public prosperity of the natives, without offering violence either to their prejudices or religion. On this subject, however, I have no attachment to any particular party or opinion, and should prefer that system of law, whether Hindoo or Mahomedan, or a modification of both, which  
should



should most effectually secure the approbation of those who are entitled to decide upon it. That which I am chiefly solicitous to establish, is the expediency of collecting and simplifying those laws, whatever they may be, which are now in force, and to which the people are compelled to yield obedience. No where do such urgent motives exist for presenting the laws in a clear and compact form as in India, and nowhere do fewer difficulties obstruct the attainment of so desirable an object. The private rights and interests which could obstruct it are not so numerous in India as they are in England, nor do they require to be purchased at so exorbitant a rate. This motive to the undertaking is of no small magnitude. There is another still more encouraging. The dispensation of justice would then be less laborious to the judges, and access to it more easy to the people. Without dwelling in this place on the inadequate qualifications of the judges, there can be no doubt that, planted as they are in a strange country, hearing nothing but strange languages, and obliged to apply the laws to persons and things to which they are equally strangers, they have a right to expect, where unavoidable embarrassment is so great, that every facility should be afforded of ascertaining what the law is which they are bound to administer. Instead of receiving this assistance, they are obliged, whenever a difficult case occurs, either to wander backwards and forwards

forwards through the voluminous, and often contradictory regulations of the Company; to resort to the opinions of the native lawyers, which are so frequently suspicious or ambiguous; or else to rely upon their own unassisted judgment; which every one practically acquainted with jurisprudence knows to be a very unsafe guide in such an emergency. A digest of the whole civil and criminal law as now administered, which should be at once accurate, clear, and comprehensive, could not fail therefore to prove one of the greatest favours which the Company could confer upon its Indian judges. The benefits which would be derived from it by the people would be even more conspicuous. The European judge would then be able to ascertain and apply the law by the exercise of his own understanding and industry. Those classes of natives whose profession it is to expound it, would, immediately and wholly vanish, and with them one of the chief causes of the delay and perversion of justice in India would disappear also. No persons have been more generally accused of corruption than them, or apparently with better reason. They are constantly accessible to the parties, and as they either know or pretend, that the determination of the court is in their hands, they are guilty of such practices and intrigues as destroys all confidence in the integrity of their opinions. But suppose the Hindoo and Mahomedan jurists were persons of more unsuspected

suspected honour than they happen to be. As they are known not to be possessed of great strength of mind or reach of thought, European judges would be more likely to obtain clear and correct information respecting Indian law from a methodical and complete system, drawn up under the eye and authority of a few of the most eminent lawyers who could be selected throughout India, than by depending, as they now do, upon casual local assistants. Local assistants, who are consulted after a suit has actually begun, must always be open to the fear of incapacity as well as undue influence; while a collection of rules drawn up by the ablest men throughout the country upon each branch of jurisprudence, might justly be promulgated and applied, as the authentic law of the country, deliberately and permanently settled.

It is a conviction, that a careful consolidation of the Hindoo, Mahomedan, and English laws, would secure most of the benefits here pointed out, and remove many of the evils complained of in the present system, which has caused it to be here pointed out as a task deserving of serious and urgent consideration; and in coming to this conclusion, I have only ventured to add my voice to that of many highly respectable judicial, military, and political servants of the Company, who have on various occasions concurred in such a  
recom-

recommendation.\* If ever the India Company can be expected to possess adequate skill and experience for such a work, it does so now; and if the execution of it ever can be useful, it is at the present moment. The love of procrastination which is natural to all mankind, the press of routine business, and that jealousy of interference which is so visible in every department of the Company's government, both at home and abroad, retard or repress its best and greatest undertakings. Like the owner of an old, inconvenient, crazy mansion, the India Company throws away more pains and expense in keeping it in a state of insufficient repair, than would have been sufficient to raise an entirely new and commodious edifice from the foundation. No price which could be paid for a complete and accurate digest of the law, could be regarded as excessive. It would put a stop to that perpetual, partial, petty legislation which is going on at the present time in every one of the three presidencies,—would stop two-thirds of that voluminous and vexatious correspondence which is carried on between the Directors at home and their officers abroad,—and would encourage and qualify the Company to

\* See particularly, Judicial and Revenue Selections, vol. ii., pp. 11, 25, 47, 51, and 149; and Papers laid before the House of Commons in 1819, pp. 139 and 157.

extend the same thorough revision to other parts of their administration.

That the attempt at a consolidation of the Mahomedan, Hindoo, and English civil and criminal laws now in force in India, is neither impracticable nor dangerous, what has already taken place in Ceylon abundantly testifies. In consequence of a plan submitted in 1809 to his Majesty's Ministers, by Sir Alexander Johnston, then Chief Justice and President of his Majesty's Council in that colony, a despatch was sent out by Lord Liverpool, then Colonial Secretary, in consequence of which the following Ceylon order in council was issued on December 1, 1811.—

“ An extract from the Earl of Liverpool to his  
“ Excellency the Governor of these settlements  
“ was read, communicating his Royal Highness  
“ the Prince Regent's pleasure, that all the dif-  
“ ferent classes of people who inhabit the British  
“ settlements in this island should in future be  
“ governed, as nearly as circumstances will ad-  
“ mit, according to their ancient customs; and  
“ that the Chief Justice do prepare for their use a  
“ short and simple code of laws, founded upon  
“ those customs, and divested of all technical  
“ language.

“ The Chief Justice and President of his  
“ Majesty's Council thereupon submits to the  
“ Governor in Council the following, as the plan  
“ which he intends to adopt, should it meet with  
“ their

“ their approbation, for carrying into effect the  
 “ wise and benevolent object which his Royal  
 “ Highness has in view:—1st. The Chief Justice  
 “ will, with the concurrence of his Honour the  
 “ Lieutenant-Governor, immediately select a cer-  
 “ tain number of persons from each district, to  
 “ report to him upon the nature of the laws and  
 “ customs which at present prevail in the different  
 “ parts of the island, and to point out to him  
 “ such alterations in them as they may think  
 “ expedient. 2d. The persons whom the Chief  
 “ Justice will select for the purpose, will be such  
 “ only as are the most distinguished in their re-  
 “ spective districts for their integrity and good  
 “ conduct, as well as for their thorough know-  
 “ ledge of the religion, customs, habits, and  
 “ local interests of the people. 3d. As soon as  
 “ the Chief Justice shall have received the reports  
 “ from the several districts, he will draw up from  
 “ the information contained in them such a code  
 “ of laws as the Prince Regent has commanded.  
 “ 4th. The Chief Justice will cause a Dutch,  
 “ Portuguese, Cingalese, and Tamul translation  
 “ of the code to be publicly exhibited in each  
 “ district for one year, in order that every one  
 “ of his Majesty’s subjects in these settlements  
 “ may have the fullest opportunity of considering  
 “ the code, and making such objections to it as  
 “ may occur to them. 5th. The Chief Justice,  
 “ having thus taken the sense of his Majesty’s  
 “ sub.

“ subjects upon the code, and made such alterations in it as the further information he shall have received in the course of the year may have rendered necessary, will then submit it for the consideration of the Governor in Council, in order that they may forward it to his Royal Highness the Prince Regent, for his royal approbation.

“ The above plan having been approved of by all the members of the council, the Lieutenant-Governor in Council orders, that it be published, together with the proceedings thereon, for the information of his Majesty’s subjects on the island.”

No difficulty was experienced in carrying the plan here chalked out into execution, and so far as accounts have hitherto reached this country, the result has proved completely successful. It is true, that what has been done in Ceylon does not conclusively shew that the same attempt would answer equally well on a larger scale, and among nations whose habits and characters may be different. Still it is no small step gained, to see that the collection and arrangement of the scattered laws of an eastern country is not always so unattainable an object as it has been generally deemed. If India present greater difficulties than Ceylon, the Company are also provided with larger means to meet them; and the number of systems of law which would be requisite in the former place, is  
pro-

probably not greater than those which have actually been provided in the latter. In Ceylon there are five co-existing codes now in force:— the Cingalese for the mass of the natives; the Mahomedan for those of that faith; the Tamul, or Hindoo, for the Hindoos; the Roman law for the Dutch; and the law of England for the other European inhabitants. More than these would probably not be necessary throughout the whole of the Company's extended dominions; and the differences between them would, on most topics, be found extremely unimportant. Even if the number and discrepancies of the codes required were twice as great as there is any reason to anticipate, it is apprehended that the measure would notwithstanding be expedient. The mere compilation and publication of the various systems of law which prevail in British India, would neither make these systems more numerous, nor the discrepancies between them more striking than they now are. The existence of these varieties and discrepancies is, in fact, a strong reason why such varieties and discrepancies should be announced with all possible clearness to the judges by whom the laws in various parts of the country are administered. Several excellent treatises on Indian law have been published in English, but the doctrines they contain are only of partial application. Many of the rules contained in the digest of Tercapanchanana, translated by Mr. Colebrooke,



are inconsistent with the law and practice of Southern India. The two treatises on Inheritance and Partition, translated by the same gentleman, and that on Adoption, translated by his nephew, Mr. Sutherland, are also said to be extremely useful ; but the universal and received rules of law should be given to the world in a clear and simple form, under the sanction of the governing authority of the country. The measure in itself, therefore, seems to be wise, and would most likely also prove economical. It would probably cost less at the outset than is usually assumed, and the charges first incurred would be amply counter-balanced by a saving of litigation afterwards. There would be no need of native jurists as counsellors ; the number of suits would ultimately be diminished ; and each suit would become less tedious and expensive. These chances are all in favour of the measure. Even if it failed, it would be beneficial. If it were made known to the natives, that the object was not to subvert their laws, but to ascertain, collect, and promulgate them, no degree of ignorance and prejudice could prevent them from feeling grateful for such a token of the solicitude of their rulers for their tranquillity and comfort. If it succeeded, as with prudence and perseverance it might justly be expected to do, it would fix the Company more firmly than they have ever yet been in the confidence and affection of their own subjects, and tend

tend more effectually than any of its proudest acts to spread its honour and renown among surrounding nations.

2. From a consideration of the laws by which our colonies in India are governed, we come next to an examination of the qualifications, numbers, and classes of the judges by whom those laws are administered. It is difficult to say whether good laws, or the good administration of them, be most necessary to the efficient dispensation of justice. Laws may be bad when their administration is good, and the administration may be bad when the laws are excellent. One thing is certain, that it is by the effects which laws produce, and not by an abstract examination of their provisions, that their merit is usually estimated. It is very desirable, therefore, before proceeding to scrutinize the persons by whom, or the system of procedure by which, laws are enforced, to ascertain the general impression produced by their administration upon those who are best informed upon, and most interested in, the subject.

It cannot be denied, that by far the greatest part of those who have borne testimony to the impression made upon the natives by our present administration of law in India, confess it to be unfavourable. The administration of it never has continued essentially the same for ten years together; and in none of the shapes which it has successively assumed, has it displayed the efficiency

which the Company intended or expected. This unceasing transformation alone creates a presumption against it; and that presumption is confirmed by the ablest judicial servants of the Company whose opinions have been laid before the public,\* as well as by most of the writers on Indian subjects who have expressed their sentiments upon the question.

"We cannot expect the natives," Major Galloway has remarked, "to distinguish accurately between those members of our courts who may be corrupted, and those who may not. They do not inquire probably, and, to say the truth, it is not much worth their trouble to do so. The effect to them is the same whether the English judge be pure or not, or whether he partake of the plunder of his corrupt *aamla*. The general impression is that which is to be most thought of, and that is, that in our courts there is enormous expense, enormous delay, and that everything else is uncertain. There is nothing more terrific under the sun to an honest native than our courts of law, except perhaps the Supreme Court of his Majesty at Calcutta, wherein they say suits are ended only with the means of one or other of the parties to carry

\* See particularly those which are to be found in the Judicial and Rev. Sel. vol. ii. pp. 2, 6, 10, 29, 38, 46, 51, 75, 95, 111, 131, 172, and 179.

“ carry them on. If we would impress on the  
 “ minds of the natives of India the precepts of  
 “ morality, they must be exhibited to them prac-  
 “ tically, not only by ourselves, but by every one  
 “ holding important or confidential situations  
 “ under us. It must be shown that we are not  
 “ only willing, but able to detect, as well as to  
 “ discard the wicked.”\*

These remarks contain perhaps too severe and indiscriminate a charge against our administration of justice, but it is to be lamented that they should be so deeply founded in truth. The disgraceful transactions detected in the zillah court of Canara, in 1813, and which are fully detailed in the Judicial and Revenue Selections,† give rise to a train of reflections of a very painful nature. Unless the malversation which was there proved against some of the most confidential officers attached to the court, had prevailed widely in other parts of the country, it could never have risen to the height which it had there reached; and the supine and inefficient manner in which the delinquents were punished, after their guilt had strongly attracted the attention of the constituted authorities and the public, could not fail to persuade every Indian in whose hearing the proceedings had been mentioned, that bribery and  
 extortion

\* Observations on the Law and Constitution of India; London, 1825.  
 † Vol. ii. p. 689—769.

extortion were crimes which we were either unable or unwilling to repress. The vengeance which occasionally visited notorious judicial offenders under their old government, had at least the merit of promptitude and vigour. It has never had it under ours; and among a people who judge by facts rather than by wishes and professions, such a circumstance is sufficient to produce a dislike to our whole judicial system; and it can excite no surprise, if this dislike, when strengthened by experience of the expense and delay with which the system appears to be chargeable, should settle into that rooted aversion to it which so many of the natives are said to entertain.

“ Subsequently to the introduction of the judicial system,” Sir J. Malcolm observes, “ the original law has been almost buried under volumes of regulations and ordinances, rendered necessary to adapt it to our principles of rule. The best talents of the civil service of the Company have been devoted to the judicial department; but it may be remarked, that although the courts of justice have been supported by the most liberal expenditure, and although those who preside in them are, generally speaking, as remarkable for their laborious application and abilities, as for their integrity, the establishment has never become popular among that people, in conformity

“mity to whose real or supposed prejudices it was constituted.”

“The facts which have been adduced,” continue the Directors themselves, “and others which will hereafter be noticed, furnish but too ample evidence that the provisions of the code of British India, highly beneficial as they have proved in some important particulars, have yet substantially failed in the accomplishment of one of the most material ends they had in view, in that large portion of our possessions where the code was originally introduced, and where it has been longest in practice. But in taking a survey of the inadequacy of the judicial system, the existing accumulation of undecided suits is very far from exhibiting the whole of the evil. To form a tolerably correct idea on this subject, especially in regard to the zillah courts, to which we here more particularly direct our observations, we must bear in mind the number of persons who may be deterred from applying to them for redress, from the despair of having their disputes and grievances settled within any reasonable time, as well as from the great distance they must travel for justice, the expense of the journey, and the great interruption which it must occasion to their private concerns, called away as they are from

" from their homes, at the very season when their  
 " absence cannot be dispensed with, without  
 " serious injury to the cultivation of the land.  
 " The records of the Bengal government inform  
 " us of another evil of no less consequence, viz.  
 " that the affrays, homicides, and woundings,  
 " which are continually occurring in those pro-  
 " vinces, on the subject of disputed rights, are  
 " occasioned by the length of time which neces-  
 " sarily elapses before redress can be obtained,  
 " which has been found to impel those who feel  
 " themselves injured in their rights and property,  
 " to have recourse to violence and force for the  
 " defence of them, thereby taking the law into  
 " their own hands."\*

To this accumulated evidence against the effi-  
 ciency of the present administration of justice in  
 India, may be added the authority of the people of  
 India themselves, as conveyed through Sir Edward  
 Colebrook, Mr. Elliott, and Mr. J. Perry, the com-  
 missioners who were appointed by government to  
 investigate the causes of the extraordinary and  
 almost universal insurrection which took place at  
 Bareilly, the capital of the district of Rohilcund,  
 in 1816.

" The commissioners say, they do not conceal  
 " from government their opinion, that both our  
 " mode

\* Judicial Letter from Court of Directors to Madras, dated  
 29th April 1814, printed in Jud. and Rev. Select p. 238.

“ mode of managing the revenue, and of administering justice, were far from popular with many of the principal classes of Hindostan. They further state, as an admitted fact, that our courts of judicature are, in these provinces, viewed as grievances by the higher classes, and not considered as blessings by the lower. To the latter, these courts are hardly accessible from their expense, and nearly useless from their delays. The commissioners add, that their opinion upon the unpopularity of our courts of judicature, and system of revenue, in Rohilcund, is corroborated by that of the ablest public functionaries of that province.”\*

A more unsuspecting or instructive indication of public feeling could not have been communicated. It is only in periods of distress or excitement that unpleasant truths are fully disclosed : and to find that branch of government which consists in the administration of justice, upon the purity and efficiency of which we believed ourselves to have founded our best claim to the benedictions of the inhabitants of Hindostan, openly stigmatized by them as grievous and oppressive, is mortifying and unexpected. When this testimony is superadded to the list of authorities previously adduced, it supplies the only link which was wanting to complete

\* Malcolm's History of India, vol. i. p. 596, quoted from Bengal Judicial Consultations for October 1818.



plete the chain of evidence. Such a feeling as this never arises without just cause, and least of all among the quiet and enduring inhabitants of Hindustan. Defects of some sort or other, therefore, must exist; and without any disposition to exaggerate their number or amount, it naturally becomes a subject of inquiry, whether any of them can be justly ascribed to the incapacity, fewness, or distribution of the European judges, upon whom the dispensation of justice now principally rests.

The course of education prescribed for those Europeans who are afterwards to fill judicial stations in India, differs in no respect at the outset from that of the Company's other civil servants. At Haileybury College they attend, at the age of sixteen, seventeen, or eighteen, a series of lectures on the law of England. Two or three years afterwards, they set out for India. After staying for some time at the capital of that presidency to which they are attached, but seldom exceeding one or two years, they are sent up the country, where they begin their judicial functions as registers to one of the judges of the zillah courts. From this situation they are in a few years promoted to the rank of zillah judges themselves. They are thus, at a very early period of life, and with acquirements which can neither be remarkably solid nor extensive, forced into a sphere where no quickness or soundness of understanding

standing can supply the place of study and experience. In art or in science, in the cabinet or the field, genius or judgment may occasionally supersede both learning and habits of business. But in law, the mind has no opportunity for making such an effort. It must be habituated by time to slow and correct deduction, and taught by practice to estimate the exact degree in which involved and conflicting rights and interests preponderate over one another. The consequence is, that a great deal more is expected from the judicial servants of the Company, than they can reasonably be expected to perform.

“ In Europe,” says General Leith, “ a merchant  
 “ is a trader, and the judge a man of the law.  
 “ The establishment of the Company’s service has  
 “ not as yet arrived, or is not supposed to have  
 “ arrived, at that period when these professions  
 “ come to be separated and assigned to different  
 “ classes of servants, who in their early studies  
 “ are to be instructed in those branches of science  
 “ most suited to the profession for which they  
 “ are intended. Men are one day employed in  
 “ the commercial department, the next in the  
 “ diplomatic line, and afterwards find themselves  
 “ placed upon the bench. The consequence is as  
 “ might be expected: judicial duties are dis-  
 “ charged without much intelligence or method.  
 “ How then can it be matter of surprise to find  
 “ that the progress of the courts is tardy, judge-  
 “ ments

"ments contradictory, and appeals frequent?  
 "There is a vulgar prejudice, that imputes to a  
 "regular establishment of courts of justice the  
 "occasion of litigation, and the prevalence of  
 "law-suits. Experience has proved how unjustly  
 "this opinion is founded. During the period  
 "that a mayor's court existed in the different  
 "Indian capitals of Calcutta, Madras, and Bom-  
 "bay, the prevalence of litigation was much  
 "greater than at present, when men's rights are  
 "assured to them by the forms of law, the advan-  
 "tage of a regular bar, and the learning and in-  
 "tegrity of well-educated judges."\*

Mr. Tytler, who was himself a judge, describes  
 the way in which those gentlemen enter on the  
 performance of their functions in the following  
 manner:—"Relieved from the trammels of  
 "college, no inconsiderable portion of the  
 "young men lead a life of comparative in-  
 "dolence and extravagance, as assistants to  
 "collectors and commercial residents. The  
 "rest, entering the judicial line, are burdened  
 "with the cares and invested with the power  
 "attending the office of a judge, while as  
 "yet they have scarcely one qualification for  
 "the situation, except a knowledge of the  
 "language." He afterwards adds—"Under  
 "the present arrangement, although the young  
 "civilian

\* Leith, p. 98; see also p. 34.

“civilian has attained a competent knowledge  
 “both of Persian and Bengalee, yet he often finds  
 “himself in a wilderness when he enters the  
 “court and commences his first cause. He is,  
 “in fact, for a while, exposed to the concealed  
 “but continued ridicule of his inferior officers.  
 “It is not likely, indeed, that he should discover  
 “this, as the lowest natives around him possess a  
 “thorough command of countenance, united to  
 “the most finished politeness.”\*

These sketches may be highly coloured, but the outlines of them have all the appearance of being correct, and the ample confirmation they receive from the direct declarations of very intelligent persons, who have themselves acted as judges in the Company's service,† conclusively prove that the qualifications required of East-India judges are neither such as could be desired, nor as they might and ought to be rendered. Whether it would be more advisable that the requisite preparation should be given in England or in India, is a question that has been made the theme of frequent and animated discussion.‡ Those who think it ought to be given at home. plead the superior

\* Tytler on India, vol. i. pref. p. 14. Ibid. vol. i. p. 62.

† Revenue and Judicial Selections, vol. ii. p. 11, 16, 76, 77, 90, 149, and 150.

‡ Letter to Sir Charles Forbes by a Civil Servant, p. 23  
 This tract is now known to be the work of Mr. Henry Ellis.

perior opportunities of forming the young man's mind, morals, and manners, which a few years' longer residence in England would afford. Those who ~~with~~ them despatched early to the scene of their future exertions, urge that a long residence in idle or luxurious society in the mother-country, renders a young man discontented with that which he afterwards finds in the colonies; and that the ablest and happiest servants of the Company have generally been those who have gone away the youngest. The question is one upon which I confess myself not fully competent to form an opinion. Provided the qualifications of the judicial servants of the Company be really raised, it is of little moment in what place, or by what means, that alteration is accomplished. The present is not the time for placing half-taught men on the judgment-seat in any part of the world. Brigadiers or major-generals are not much respected now as chancellors in the West-Indies; yet they are just as well qualified to fill such stations as a Company's factor or junior merchant is to be converted from a collector of revenue, which he perhaps was the week before, into a zillah judge, which he becomes the week following. He ought to be fit for his place when he enters upon it, and not become qualified for it when he is about to leave it. The administration of justice is not an easy task anywhere; and Hindostan is not the place where an uneducated European can attempt it

it most successfully. He must be, to a great degree, a stranger to the language, characters, and habits of the people around him ; he has the astute, and often corrupt, officers of his court to superintend ; the opinions of Mahomedan and Hindoo lawyers to approve or reject ; he has to determine how far the law of the district is affected by the Company's regulations ; and if no native law or written regulations exist, he has to settle in what way the principles of natural equity bear upon the dispute between the parties. It is apt to be forgotten, that the duties of a judge are, or ought to be, far more difficult under the Company, than they were under the native princes. The Company has thought fit to create a regular system of law and procedure, both of which, till their time, were unknown in India. This law and procedure must become more complicated, as deeds, contracts, and agreements become more numerous, and the enforcement of them more certain. All this not only points out the necessity of rendering the judges a separate body of officers, as they were wisely made by Lord Cornwallis, but obviously demands from them qualifications which no adequate means have hitherto been taken to furnish.

Not only does it seem meet that those young men who are destined for the judicial career should be afforded sufficient means of instruction, but also that there should be some trial of the  
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bent and extent of their capacity, by shewing what influence the instruction which they have received has had upon them. This examination ought not to be unnecessarily rigorous ; but if it were of such a sort as to be undergone at all times and by all persons, the effect of it would be eminently beneficial. The importance of the appointments now in the hands of the Directors would, it is true, be somewhat reduced, but they would still be abundantly valuable. It is quite sufficient for the person in whom the patronage may be vested, to have the privilege of nominating one promising young man to be sent out as a judge, instead of one still abler who might have obtained the appointment if it had been open to general competition. That a certain number of incompetent or thoughtless young men would, by such an ordeal, be deprived of a comfortable provision for life, to the loss and disappointment of themselves and their relations, is true ; and this is the very circumstance which demonstrates its utility. Severity, in rejecting a young man unfit to be a judge, is mercy towards those over whose persons and properties he aspires to sit in judgment. This is not meant to convey any general reflection on the ability of the judges in India. An inspection of the two volumes of reports and memorials made by the judicial servants of the Company, and printed by the Court of Directors, and to which such frequent reference is

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is made in these pages, prove a certain proportion of them to possess a strength of judgment, and an aptitude for judicial business and arrangements, which would have done honour to any age or country. But the same volumes show that they are not all entitled to this high commendation, and none of those whose productions are there to be seen, are likely to be among the most incompetent in the department to which they belong. I rely upon the acknowledged principle, which I believe the amplest induction of particulars that could be made in this case would only confirm, that men will always be pressed into situations for which their talents are unfit, unless diligent precaution be taken to exclude them. That none but young men of first-rate understanding shall ever be employed in the administration of justice in India, it would be idle to expect; but it surely is not unreasonable to provide that they should exhibit proofs of their judicial qualifications, both later in life, and more decisive in themselves, than those which any examination now undergone at Haileybury or in India can afford. Whether the Directors are prepared for such a change or not, the time seems to be fast approaching, when no alternative will be left them, but either that of selecting their judges from a list of regularly educated lawyers proposed to them by the officers of the crown, or of bestowing more attention

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tion on the natural and acquired endowments of those of their own appointment.

There is one remaining motive for the improvement of the qualifications of the Company's judges, scarcely inferior in importance to any of those that have been previously urged. The collection and augmentation of the revenue drawn from the country, has too often been an object of undue consideration with a large proportion of the Company's governors and servants, and as the courts of justice are the only protection against illegal and arbitrary exactions, they have always been looked upon with a jealous eye, by those who are employed in the financial and military departments. Under these circumstances, it is natural to suppose, that their beneficial effects will occasionally be undervalued, as well as their errors and defects enhanced. It is extremely desirable, therefore, that no opportunity should be given to the enemies of the judicial system to depreciate its utility ; and even though none such exist, it is still apparent that the important political purposes which the Company's judges are required by the exigencies of their situation to discharge, can only be properly fulfilled by raising the standard of their character and qualifications.

Taking leave of the qualifications of the Company's European judges, let us now pass on to a consideration of their numbers. At present there  
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are between seventy and eighty separate courts ; between 110 and 120 European judges ; and between sixty and seventy European registers ; which last, besides discharging the duty of registers, occasionally perform that of judges also. It thus appears, that upon 200 Europeans, or thereabouts, all important causes devolve which arise among a population of about ninety millions of inhabitants, scattered over a surface of upwards of 1,500 miles in length, and about as much in breadth, and exhibiting endless diversities of religion, manners, habits, and institutions. The jurisdiction of each zillah judge throughout the presidency of Madras appears to contain, on an average, from 250,000 to 300,000 souls.\* Each of the zillahs in Bengal contains from 800,000 to 1,200,000.† That of Rungpore is said to contain the enormous amount of TWO MILLIONS AND A HALF.‡ No reasoning or explanation can either enfeeble or fortify the inference to be drawn from the simple statement of these particulars. Whatever a judge's capacity and zeal may be, it is impossible he can accomplish what is here demanded of him. Making all allowance for the simplicity which pervades the transactions of Eastern society, and the general poverty of its population, if the zillah courts fail to be choked up, it can only be because

\* Judicial Selections, vol. ii. p. 153.

† Ib. pp. 8, 34, 50, 67, 92.

‡ Ib. p. 51.

because the suitors are absolutely debarred, by expense and distance, from resorting to them. Surely such an order of things is neither calculated to secure the honesty and contentment of the Company's subjects, nor the prosperity and stability of their own government. It must be bad if they are peaceable, and if they are litigious, it must be a great deal worse. The complaint about the litigiousness of the natives of India has, in the opinion of the best informed persons, been grossly exaggerated;\* but the most unwarrantable conclusions have been drawn from it, even if it were admitted to be true. The evil springing from too easy an access to courts of justice is one of the chimeras which no man ever witnessed. The unjust or disputatious are not so likely to be reformed by the denial of justice altogether, as by its prompt and upright administration. Let a man be quickly and fairly heard; and, if wrong, let him be punished in his person or his pocket. However wicked or obstinate, this treatment will soon tire him out, and the lesson will not be lost either upon himself or his neighbourhood. The insufficient supply of superior courts and judges, therefore, is a great evil, and has been admitted to be so under every modification of the present system. It was declared by Mr. Dowdeswell,

\* Vice President of Bengal in Council, in papers laid before the House of Commons, in 1819, p. 80.

Dowdeswell, secretary to the Supreme Government, in a letter dated 10th Nov. 1814, that—  
 “ From the circumstances stated by the Sudder  
 “ Dewannee Adawlut, one obvious conclusion  
 “ must be drawn, which is, that the constitution  
 “ of the courts of civil judicature, through all  
 “ their gradations, urgently requires reform.”\*  
 “ The great objects,” it is said in the papers laid  
 before the House of Commons, in 1819, “ which  
 “ Lord Cornwallis had in view, in forming the  
 “ judicial code of Bengal, consisted not only in  
 “ the desire of providing for an upright adminis-  
 “ tration of justice, but also in securing a prompti-  
 “ tude and facility in the means of obtaining  
 “ it, in a country where, as has been truly stated  
 “ by Lord Teignmouth, short injustice is prover-  
 “ bially said to be preferable to protracted jus-  
 “ tice.”†

Notwithstanding the expression of these senti-  
 ments on the part of the government, the stagna-  
 tion of causes in the Sudder Dewannee and other  
 courts has almost ever since been a standing sub-  
 ject of reproach;‡ and in Bengal alone the suits  
 in arrear amounted, in 1812, to the enormous  
 number of 163,000. What they would have  
 been now, had the same system of judicature con-  
 tinued,

\* Parliamentary Papers, 1819, p. 130; see also p. 62, *et seq.*; see also Marquis of Hastings, *ib.* p. 150, Criminal Judicature; and p. 153, Civil Judicature—2 Oct. 1815; Parliamentary Papers, 1819, pp. 291, 101, 269.

† *Ib.*, p. 33.

‡ *Ib.* pp. 9, 16, 61.

tinued, it is difficult to conjecture ; for the Court of Directors, in a judicial letter sent to Bengal, in 1824, describe the alterations made in the judicial system as so incessant, that it is impossible either to understand them, or reason upon them.\* The only conclusion warranted by the facts of the case is, that when the prosecution of suits is made more difficult and expensive, they diminish ; and when it is made more cheap and easy, the present establishment of European judges becomes utterly incapable to stop their alarming accumulation.

Why then, it may be said, is not the number of the European courts augmented ? Undoubtedly it ought, provided the chief part of the judicial business of India is to be conducted by European agency, and upon as extensive a scale as may be necessary for the adequate dispensation of justice. But European agency is not economical. The climate demands many indulgences, and vanity and fashion have superadded others, until the resources of the Company, abundant as they are, can scarcely defray the cost of their actual establishment. Mr. Secretary Dowdeswell declares, that the salary of each provincial judge ought to be at least thirty-five thousand rupees, or about £3,500, and that of each of the zillah judges is now about £2,500. The whole judicial expense of the three presidencies is enormous. The charges

\* Jud. and Rev. Selections, vol. iv. p. 33.

charges of that of Madras, exclusive of prisoners and the police, amounted in the year 1811-12 to no less than £348,262;\* and that of Bengal, in the year 1809-10, rose to the extraordinary sum of EIGHT HUNDRED AND SEVENTY THOUSAND POUNDS.† Instead of increasing the number of European courts, no fewer than nine zillah courts were reduced within the presidency of Madras, between the 9th of February 1821, and the 7th of March 1823. Of this reduction, it is true, the Court of Directors thought proper to express their disapprobation; but down to the date of the very last printed judicial letter which was sent by the Directors to Bengal, they express their inability to make any addition to the number of their European law officers;‡ and when it is considered that, to discharge the duties now imposed on the judges, their numbers ought to be at once trebled or quadrupled, it is obvious that all expectation of such a reinforcement is absolutely hopeless. This, however, is no answer to the complaint against the present system of administering justice in India. The government is not released from its obligation to provide justice; and if it cannot afford Europeans, it is bound to call in speedy and effectual assistance from some other quarter.

### 3. Such

\* Parliamentary Papers laid before the House of Commons, 1819, p. 290.

† Ib. p. 288.

‡ Jud. and Rev. Selections, vol. iv. p. 35.

3. Such assistance can be derived only from the natives themselves; and the propriety of availing themselves of it more effectually than has hitherto been done, is the next proposal for the amelioration of our Indian judicature, which comes to be considered. When the English first obtained a footing in Hindostan, the consciousness of their own ignorance and insecurity, induced them to retain a certain proportion of the natives in almost every department of the administration. As we got strong and confident, these have been one after another expelled or degraded, until scarcely a Hindoo or Mahomedan throughout India continues to occupy a conspicuous official situation. How long ago, or by whom the error of this policy may have been first perceived, may be difficult to discover; but the inability of Europeans to take the chief part of the administration of justice in causes of all sorts into their own hands, and the impolicy of attempting it even though they had been able, are truths which seem to be *now* universally admitted. The insurmountable difficulties, under which Europeans must always labour in the administration of justice, were brought to the notice of the local government and the Directors, by the following admirable observations, contained in a report presented to them by Sir Henry Strachey, five-and-twenty years ago.

“ Another impediment, though of a very different

“ferent nature from those I have mentioned, and  
 “much more difficult to remove, is to me too pal-  
 “pable to be overlooked—I mean that arising  
 “from Europeans, in our situation, being neces-  
 “sarily ill-qualified in many points to perform the  
 “duties required of us as judges and magistrates.  
 “Nothing is more common, even after a minute  
 “and laborious examination of evidence on both  
 “sides, for the judge to be left in utter doubt  
 “respecting the points at issue.

“This proceeds chiefly from our imperfect  
 “connexion with the natives, and our scanty  
 “knowledge, after all our study, of their man-  
 “ners, customs, and languages. Within these  
 “few years, too, the natives have attained a sort  
 “of legal knowledge, as it is called—that is to  
 “say, a skill in the arts of collusion, intrigue,  
 “perjury, and subornation, which enables them  
 “to baffle us with infinite facility.

“It appears to me that we are extremely apt,  
 “owing perhaps to our being aware of the pre-  
 “valence of deceit and perjury, to form unfavourable  
 “opinions of the veracity of the natives  
 “while taking their evidence. We perhaps judge  
 “too much by rule; we imagine things to be  
 “incredible, because they have not before fallen  
 “within our experience. We constantly mistake  
 “extreme simplicity for cunning; and we are to  
 “the last degree suspicious of our omlah. We  
 “make not sufficient allowance for the loose,  
 “vague



“ vague, and inaccurate mode in which the natives tell a story, for their not comprehending us, and our not comprehending them. We hurry, terrify, and confound them with our eagerness and impatience.

“ Witnesses have generally each a long story to tell (they are seldom few in number, and often differ widely in character, caste, habits, and education) thrice over ; namely, to the daroga, the magistrate and the court of circuit ; they relate tediously and minutely, but not accurately, a variety of things done and said ; numerous variations and contradictions occur, and are regarded with cautious jealousy ; though, in reality, they perhaps seldom furnish a reasonable presumption of falsehood. But who shall distinguish between mistake and imposture ? What judge can distinguish the exact truth, among the numerous inconsistencies of the natives he examines ? How often do those inconsistencies proceed from causes very different from those suspected by us ? how often from simplicity, fear, embarrassment in the witness ? how often from our own ignorance and impatience ? We cannot wonder that the natives are aware of our suspicious and incredulous tempers ; they see how difficult it is to persuade us to believe a true story, and accordingly endeavour to suit our taste with a false one. I have no doubt that, previously to their examination as witnesses,

“ nesses, they frequently compare notes together,  
 “ and consult upon the best mode of making their  
 “ story appear probable to the gentlemen ; whose  
 “ wisdom it cannot be expected should be satisfied  
 “ with an artless tale ; whose sagacity is so apt  
 “ to imagine snares of deception in the most per-  
 “ fect candour and simplicity. We cannot but  
 “ observe that a story, before it reaches us, often  
 “ acquires the strongest features of artifice and  
 “ fabrication. There is almost always something  
 “ kept back, as unfit for us to hear, lest we should  
 “ form an opinion unfavourable to the veracity of  
 “ the witness. It is most painful to reflect how  
 “ very often witnesses are afraid to speak the  
 “ truth in our cutcherries. We cannot study the  
 “ genius of the people in its own sphere of action.  
 “ We know little of their domestic life, their  
 “ knowledge, conversation, amusements, their  
 “ trades and castes, or any of those national and  
 “ individual characteristics, which are essential to  
 “ a complete knowledge of them. Every day  
 “ affords us examples of something new and sur-  
 “ prising ; and we have no principle to guide us  
 “ in the investigation of facts, except an extreme  
 “ diffidence of our opinion, a consciousness of  
 “ inability to judge of what is probable or im-  
 “ probable.”\*

Sir Thomas Munro, the late distinguished Go-  
 vernor

\* Appendix to 5th Report presented to the House of Com-  
 mons, pp 534 and 561.

vernor of Madras, has since expressed his opinion on the same topic, to the same effect, and sometimes almost in the same words :—" There is," he observes, " such a strange mixture of fraud and " honesty in the natives of India, and even in the " same individual in different circumstances, that " none but a native can, on many occasions, penetrate the motives from which such opposite " conduct arises. The numerous petty dealings " constantly going on, with comparatively very " few disputes, the frequency of depositing money " and other valuable articles without any kind of " voucher, and the general practice of lending " money without any receipt or document but " the accounts of the parties, manifest a high " degree of mutual confidence, which can originate only in a conviction of the probity of each " other. But, on the other hand, every native " will perjure himself in a litigation respecting " water, boundaries of villages, and privileges of " castes. He will also perjure himself, with little hesitation, in favour of a relation, a friend, " or an inhabitant of the same village. These " causes, added to bribery, render perjury so " common, that scarcely any dependence can be " placed upon evidence, unless it is supported by " collateral proofs. The number of witnesses, " and even their general character, is therefore " of less consequence than an acquaintance " with those particular customs and prejudices by " which

“ which their evidence is likely to be biassed.  
 “ The judge must always be inferior to a native  
 “ in knowledge of this kind : he will likewise be  
 “ deficient in the language ; he never can be so  
 “ much master of it as to follow and detect the  
 “ minute points by which truth and falsehood are  
 “ often separated. The voice of a witness, the  
 “ manner, the mode of expression, the use of  
 “ words of a less positive, though often similar  
 “ sense—all these must be beyond the reach  
 “ of an European, whose knowledge of an  
 “ Indian language can never extend to such  
 “ niceties.”\*

On the impolicy of excluding the natives from all places of dignity and importance, and especially from those which belong to the administration of justice, Mr. Ellis, Mr. Tucker, Mr. Tytler, Sir John Malcolm, Colonel Stewart, and almost every late writer on the affairs of India, have spoken with a degree of earnestness and unanimity which entitles their remonstrances to the most favourable consideration :—“ We have  
 “ tried,” says Colonel Stewart, “ the extra-  
 “ ordinary experiment of performing, by means  
 “ of a few hundred foreigners, all the du-  
 “ ties of government for a population of eighty  
 “ millions, and as might have been expected, the  
 “ experiment

\* Parliamentary Papers laid before the House of Commons, in 1819, p. 291.

“ experiment has failed. The courts of justice are  
“ universally deeply in arrears: the protection  
“ to persons and property is most imperfect—of  
“ public instruction there is nothing deserving the  
“ name; and the security from foreign violence  
“ afforded to the territory is the only duty of  
“ government that is tolerably fulfilled. In ad-  
“ dition to this complete insulation of the organ  
“ of government from society, the number of  
“ European civil servants is manifestly totally  
“ inadequate to perform any thing like the duties  
“ of internal administration to such an immense  
“ population; and we have committed the further  
“ error of retarding the administration of justice  
“ under a purely military despotism, by many of  
“ the forms applicable only to a free constitution.  
“ It is most natural for us, who are accustomed  
“ in our own country to consider the law as the  
“ safeguard of the constitution, and the decisions  
“ of our judges as the safeguards of the law, to  
“ secure the administration of justice from error  
“ as far as we can. But the absolute and perfect  
“ dispensation of justice is unattainable in human  
“ affairs, and no injustice that can be done is so  
“ great as the withholding justice altogether; nor  
“ is it conceivable that any evil resulting from a  
“ more prompt determination of causes could be  
“ productive of any thing like the aggregate evil  
“ resulting to the community, from the inability  
“ of our courts to undertake the business. The  
“ effect

“ effect of our land-tax, the complete decline of  
 “ the ancient gentry—the abolition, by the per-  
 “ manent settlement of the rights conferred by  
 “ the ancient system on the cultivators of the  
 “ soil, especially protected the lower orders of  
 “ society from the injuries to which they are so  
 “ peculiarly exposed. These men, and these  
 “ men are the community, cannot approach our  
 “ courts of justice.”\*

In justice to the Court of Directors and the greater part of the officers belonging to the executive government in India, it ought to be mentioned, that they concur in the views now generally entertained on this subject. They are aware of the extent of the error that has been committed, and it is to be hoped they will display the activity and perseverance which are necessary to retrieve it. If one department could be pointed out in which the natives could be more safely and advantageously admitted by us to a participation in authority than another, it would be the administration of justice. In every other branch of government, whether in diplomacy, war, trade, or finance, the native strength of mind of the Company's European officers, however new the situation may be in which they are placed, must to a certain degree clear the way before them ; but the judge who has to decide matters of law, where an intimate acquaintance

\* Colonel Stewart, pp. 69 and 72.

acquaintance with words, persons, privileges, usages, opinions and feelings is requisite, finds himself in a state of perpetual embarrassment. It must also be felt by every European judge who goes to India, nearly in the same degree. None of them can bequeath the knowledge he has acquired to him by whom he is succeeded. A very important part of the education of every European judge in India must be acquired by personal practice and observation in court: he must remain for years ignorant of much of that detailed knowledge with which he is presumed to be familiar at the outset, and from various causes the change and succession of judges is so rapid, that many of them have actually terminated their career before they have acquired those qualifications which they assuredly ought to have possessed at its beginning. Under these circumstances, it is on every account right and proper that we should endeavour to devolve upon the Indians themselves, that part of the administration of justice to which the Company's European servants are obviously, and indeed confessedly, unequal.

It has however been much questioned whether, under any encouragement, the natives can be expected to display that capacity and integrity, without which they could occupy no important judicial post with advantage to the country. In a matter requiring so much local knowledge with Indian character I should wish to speak with great  
hesitation,

hesitation, as any opinion I can form must rest entirely on the evidence produced, and on the motives by which mankind, at all times and in all places, have been found to be governed. It seems now to be fully shown, by the papers relating to the India Company laid before the House of Commons in 1819, and the second and third volumes of the Judicial and Revenue Collections lately printed, that want of capacity affords no ground for excluding the natives from higher judicial situations than those which they have lately filled. Their intellectual ability is now generally admitted. Want of integrity has been imagined to stand more in the way of their employment; but it seems now to be admitted also, that the corruption of those who have been hitherto attached to courts of justice, has been as much owing to the inadequacy of their emoluments as their own want of principle.

“ Let the native judges,” says Sir Henry Strachey, “ be well paid, and they will do the duty well: of this I feel the strongest conviction. The expense would be little or nothing, as the fees might defray the whole; though it would be better to give the native judges liberal salaries. There should, at all events, in causes for undue exactions of rent, be no fees on documents, no stamps, no expense, except the institution fee. If the powers of the moonsifs were only extended to the decision of suits to the amount of two hundred rupees (the limit of  
G “ the



“ the Register’s authority at present), the institu-  
“ tion fee alone would, I conceive, form an am-  
“ ple fund for the payment of the native judges  
“ and their omlah. When I speak of a liberal  
“ salary for a native judge, I would be under-  
“ stood to mean somewhat less than one-tenth of  
“ the salary of the European judge. It is my  
“ opinion that all the judicial functions of Bengal  
“ might gradually be thrown into the hands of the  
“ natives, if such were the pleasure of the Com-  
“ pany; and that the business would be as well  
“ conducted, under our regulations, by the na-  
“ tives as by the Europeans—in some respects  
“ better, and at one-ninth of the expense. It is  
“ only since the Europeans were well paid that  
“ they themselves became trustworthy.”\*

The opinion here expressed and enforced by this eminent judicial servant of the Company, has met with the concurrence of the ablest acting or retired official characters here and in India, and has lately been deliberately sanctioned by the Court of Directors themselves. In a judicial letter addressed by them to the presidency of Madras in 1814, they distinctly declare that—“ Having  
“ adverted to the general and most obvious de-  
“ fects in the present system, we are brought to  
“ the consideration of the remedy most appli-  
cable

\* East-India Judicial and Revenue Selections, vol. ii. pp. 56 and 67.

“ cable to them ; and after an examination of  
 “ every available source of information within  
 “ our reach, and having attentively reviewed the  
 “ whole that we have collected, we are disposed  
 “ to think that the important object, so far as the  
 “ administration of civil justice is concerned, may  
 “ be obtained in a degree commensurate to the  
 “ wants and necessities of the people, by such a  
 “ modification of the present judicial system as  
 “ shall consign a great part of the business, now  
 “ conducted by the zillah and provincial courts,  
 “ to intelligent natives, through whose agency  
 “ the means of administering justice might be  
 “ enlarged, and at the same time a foundation  
 “ laid for diminishing the expense of the existing  
 “ establishments of the Company.”\*

The soundness of the opinions here delivered by the Directors does not now rest solely on conjecture. An efficient class of native judges has within the last four or five-and-twenty years sprung up and been employed at Madras ; and so far as the experiment has hitherto proceeded, it has proved decidedly successful. It may be necessary to premise, that the meritorious officer lately at the head of that presidency seems, in the successive subordinate stations which he occupied, to have become imbued

\* Judicial Selections, vol. ii. p. 249. See also the opinion of the Sudder Adawlut to the same effect. Ibid. p. 275, sect. 145 ; and again vol. iv. pp. 30 and 31.

imbued with an excessive admiration of several of the judicial and political institutions of the Hindoos. One of these was to unite the departments of finance, police, and justice in the same person ; and another was, to revive what was supposed to be the ancient method of settling differences between private parties by means of a punchayet. The punchayet, as the name implies, consisted originally of five, but afterwards more frequently of a greater number of arbitrators. Under Sir Thomas Munro's auspices, a plan for reviving the punchayet was formed and carried into execution. It has totally failed, and is a striking instance of the practical as well as theoretical errors into which those persons run, who have dogmatically pronounced every thing in India to be unchanged and unchangeable. Regard ought always to be had to times and circumstances. No doubt the usages and opinions of the natives ought uniformly to be treated with respect and consideration, and no innovation or alteration of them ought to be precipitately sanctioned, even though Diodorus Siculus and other chroniclers could not be so ostentatiously quoted as they have been in proof of the antiquity of some of their customs still existing. But, notwithstanding all this, it is certain that, when compared with ancient times, the minds, manners, and customs of the Hindoos have already changed much, and will infallibly change more if our sovereignty continues. The punchayet was not  
the

the only institution of which the re-establishment was unsuccessful. The restoration of the ancient village judges, which was another favourite object with Sir Thomas Munro,\* is now shown, by the returns which have been made for the five years during which it has been in operation, to have proved equally abortive.†

In considering the experiment made at Madras, therefore, it deserves to be recollected, that the class of native judges who have been created were neither supported by the favour of the local government nor by the prejudices of the people. They had nothing therefore but their own merit to recommend them, and that the reader may form his own judgment on the matter, the distinguished success which attended the institution of these officers shall be given in the words employed by Mr. Fullerton, in the very able minute communicated by him, in 1820, to the Court of Directors, on this peculiarly interesting subject:—

“ The foregoing shows that, during the year  
 “ 1817, the adjudication of civil suits by native  
 “ judicatories amounted to 66,302, exceeding  
 “ those of the former year by no less than 26,588.  
 “ Of those were decided by Sudder Aumeens and  
 “ Moonsifs, 10,843 ; by district Punchayets, 112 ;  
 “ and by village Punchayets, 250. It hence ap-  
 “ pears,

\* See Judicial and Revenue Selections, vol. ii. p. 629, *et. seq.*

† Ibid. vol. iv. pp. 46 and 47.

“ pears, that the great weight of civil adjudication  
“ rests on the district moonsifs. It appears that  
“ the decisions of European judicatories of causes  
“ depending before them have considerably di-  
“ minished. So far, then, the great object has been  
“ obtained. The adjudication of disputes is much  
“ extended, and native agency has, in the adminis-  
“ tration of justice, in a very great degree relieved  
“ the European courts from that pressure of busi-  
“ ness hitherto considered so embarrassing.

“ The report of the Sudder Adawlut shows,  
“ that the adjudication of suits by natives has  
“ progressively extended; and, from the course  
“ of reasoning pursued by them, it appears to be  
“ clear that the extension of that adjudication  
“ during 1817, is only a continuance of that pro-  
“ gressive increase going on since the establish-  
“ ment of the courts in 1802. But it appears to  
“ me, that there are circumstances inherent in  
“ the late alteration, which have produced effects  
“ that could not have resulted from adherence to  
“ the previous practice. It is very true, as the  
“ court remarks, that the number of district  
“ moonsifs is less in the aggregate than that of  
“ the former native commissioners; but it must  
“ be recollected, that those commissioners were  
“ unequally distributed throughout the country.  
“ Some zillahs had, I believe, the full number  
“ contemplated by the regulations of 1802: some  
“ had very few: I believe some had none, except  
“ the

“ the law officers of the court. It must be recol-  
“ lected also, that the native commissioners for-  
“ merly appointed were not men of business :  
“ they were merchants, and persons who had  
“ other affairs to look after, and they were not  
“ regularly paid. The district moonsifs, on the  
“ other hand, are persons brought up to business,  
“ selected under the direction of the provincial  
“ courts ; they are paid by government, and are  
“ equally divided, with reference to the extent  
“ and population of the respective zillahs.

“ A due consideration of all those circum-  
“ stances will account for the vast and sudden  
“ increase of adjudication by this branch of the  
“ general administration. But while I admit the  
“ great improvement that has resulted from the  
“ better arrangement of the native judicatories,  
“ and the better selection of their members, it is  
“ still obvious to remark, that the whole structure  
“ of improvement rests on the basis and principles  
“ of the system of 1802. The district moonsifs are,  
“ to all intents and purposes, servants of the govern-  
“ ment, stipendiary native judges, a new description  
“ of persons unknown under native governments.  
“ They are not the native gentry of the country,  
“ nor has their appointment any connexion with  
“ the gratuitous labour formerly required by an-  
“ cient municipal arrangements, nor is it in any  
“ way dependent on the execution of the revenue  
“ or other duties of the government. On the  
“ contrary,

contrary, it is exactly the complete disconnexion with revenue that constitutes their efficiency. In what degree, and to what extent, natives might be safely intrusted with the administration of justice, or whether they might be intrusted with it at all, has often been a question. It is now decided apparently in favour of native adjudication. Where due measures of precaution are taken, where prescribed rules are laid down, appeals admitted, and all the acts of the native judges are entirely disconnected from revenue duties, and liable to pass in revision before the European courts, there can be no doubt natives may be safely intrusted with judicial powers to a limited extent. It appears to me, that the jurisdiction of natives might safely be extended as far as suits of five hundred rupees. The appointment of an official establishment of  
“ native judges as district moonsifs, operated, as a  
“ matter of course, to the reduction of the duties  
“ and to the relief of the European courts. It absorb-  
“ ed, in the first instance, a great portion of the liti-  
“ gation of the country ; but it still remains to be  
“ ascertained whether, after the native courts are  
“ saturated with the business of original jurisdic-  
“ tion, more will not overflow in the shape of  
“ appeal, and whether the relief afforded in the  
“ original jurisdiction will not be more than met  
“ by increase in the appellate. On this point it  
“ seems to be the opinion of the Sudder Adawlut,  
“ that

“ that sufficient time has not elapsed to show the  
 “ true effect ; and, although I am disposed to  
 “ agree with them, still I conceive the prospect is  
 “ as yet extremely favourable, and that a very  
 “ great improvement has been effected in the  
 “ administration of civil justice by the great ex-  
 “ tension of native jurisdiction.”\*

This statement is important, not only because it communicates the result of the first fair trial of native judicial agency which has ever been made in India ; but because that result corroborates the opinions delivered long ago by Sir Henry Strachey, and the other servants of the Company ; and coincides with the conclusions which general reasoning would lead us to form on the subject. The Company has at last betaken itself to a description of men who had grown into notice between 1802 and 1820 ; many of whom had been brought up as pleaders in the zillah and provincial courts ; who have been examined if not instructed in the Government College, established at Madras in 1810 or 1811 ; and by whom judicial business can be most ably and expeditiously despatched. It is therefore peculiarly satisfactory to perceive, that in India, as well as elsewhere, the merits of such officers are speedily recognized by the natives themselves, though they have neither cast, wealth, nor rank to recommend them. The expectations  
 which

\* Rev. and Jud. Selections, vol. iv. pp. 47 and 48.



which may have been raised by the experiment here detailed, are however a good deal clouded by what has recently occurred at Bombay. It seems the rulers of that presidency are now engaged in an attempt to make the punchayet the chief means of administering justice throughout their dominion, notwithstanding the signal failure with which it was recently attended at Madras. That measures so inconsistent with one another as those just pointed out, should be in progress at the same time, in different departments of the same government, is certainly surprising ; and any expectation that the punchayet which has just been superseded at Madras, will prove efficient : Bombay, can be warranted only by some local peculiarities, of which neither the language held by the governor, nor that of Col. Briggs, who is one of the most active judicial officers now in the presidency, affords any ground to presume the existence. The governor himself speaks thus:—" On the whole, I should think that the means we have hitherto possessed have not been sufficient to meet the demand in Poonah ; and perhaps owing to the constant occupation of the Mamlutdars in revenue business, the same may be true in the country. I hope the plan now proposed will be more effectual. Should it fail, it will be necessary to have numerous aumeens for holding punchayets, and to adopt by degrees stricter rules, to compel the attendance

" and

“ and hasten the decision of those bodies. If that  
 “ should be insufficient, moonsifs must be empow-  
 “ ered to try causes by themselves ; in which case,  
 “ there must be an European judge to hear appeals  
 “ from them all. But these improvements must  
 “ not be introduced until they are wanted ; and  
 “ we must be careful not to induce the natives to  
 “ give up their present modes of settling disputes,  
 “ by holding out a prospect of pure and abundant  
 “ justice which we do not mean to realize.”\*

Col. Briggs declares the punchayet to be so inefficient, that it threatens a total stagnation of justice ; and he actually recommends that the Shastrees and Kawzees of the court should be employed as the district moonsifs are at present in Madras.† On every point his views appear to coincide with those of Mr. Fullerton, who, in a few sentences, has given the best general account yet recorded, of the whole nature and effects of the punchayet system. “ The trial  
 “ by punchayet is declared to be the common  
 “ law of India ; and it has been argued, that  
 “ it could not be said natives had the benefit  
 “ of their own laws, under a system which did not  
 “ include as a part of it the adjudication by punchayets. It is perfectly clear, that the prediction for punchayet arose from the circumstance  
 “ stance

\* Judicial and Revenue Selections, vol. iv. p. 203.

† Ib. pp. 829 and 834.

stance of there being no other mode of adjudication. It was, like many other native practices, a mere expedient in the absence of a settled system of judicature, resorted to in time of anarchy, confusion, and comparative barbarism, when no form of judicial process existed. The creditor relied on his own exertions for the recovery of debts due to him ; he placed peons over his debtor, or set himself down at the door until the debt was settled. To relieve himself from the importunities of the creditor, the debtor, if he disputed the demand, applied for a punchayet to adjust it. The practice was not the result of a plaintiff seeking the recovery of his just debts, but of the debtor seeking relief from the pressure of personal demand ; and it is not surprising that the practice should have ceased with the establishment of a regular system of adjudication, the want of which alone produced it. A punchayet is only an arbitration ; and what is an arbitration but an amicable adjustment of a dispute by the intervention of friends mutually chosen ? It is no doubt right and proper to encourage this mode of settlement, and it is creditable for men, when called upon, to assist in making such a settlement. But it is, after all, a private adjustment. It never has, nor ever can be, made, with any advantage, a part of the regular jurisprudence, and conducted as such under defined and pre-

“ scribed

“ scribed rules. If it be made a branch of the  
 “ public adjudication, if rules for its formation  
 “ and proceedings be laid down, it will be forth-  
 “ with abandoned.”\*

This statement is so clear and convincing, as to leave no doubt that the attempt to compel the natives to dispense justice among themselves, under our government, in the same manner as they did under the old, by means of the punchayet,† will end in the Deccan as it did in Madras, in utter disappointment. The inconvenient and inequitable form of punchayet known among the Mahrattas, is not likely to achieve those effects which, in a more regular form, and among a more advanced people, the system has failed to accomplish. The true road which leads to the improvement of the judicial system of India has been discovered at Madras, and it is ignorant or perverse voluntarily to deviate from it, either at Bombay or in Bengal. It is not by restoring empty names or forms, but by selecting men of the highest character and acquirements, and by bestowing upon them an ample remuneration for their services, that integrity and legal knowledge can be permanently secured. Perhaps it might be expedient  
 to

\* Judicial and Revenue Selections, vol. iv. p. 52; Tucker on the Revenue System of Bengal, p. 158.

† Ib. vol. iv. p. 189, *et seq.*, where a complete account of the Deccan punchayet is given.

to do more—to establish schools for legal education, and to prepare those who attend them by every practicable course of discipline and study, for the transaction of judicial business. Something of this sort is already done at Madras. No native can be appointed a pundit, or admitted to practise as a pleader, without a certificate of his qualifications from the College established in that capital. Of these pleaders, or persons educated for the native bar, many are made moonsifs, and in case of competition, they are preferred to others who have not had that advantage. If a race of efficient native servants could thus be raised up, distinguished for their private worth and professional endowments, they would not only be useful in their peculiar sphere of duty, but prove highly serviceable in advancing the moral and intellectual improvement of the great body of the people.

While, however, this anxiety is expressed for the admission of the natives to a large and important share in the administration of justice, there is strong reason to doubt whether they could safely be intrusted with it altogether. Upon this subject it is justly observed by the commissioners who recommended some of the alterations which have now been made in Madras: —“ However much the business of the zillah  
“ courts may be diminished, a certain proportion  
“ of those courts must always be indispensably  
“ necessary, though unquestionably not the same  
“ number

“ number as at present. If not a single original  
“ suit were to come before them, they would still  
“ be of the most essential use to the country as  
“ courts of appeal and criminal courts, and still  
“ more perhaps by the salutary check which they  
“ would maintain over the district and village  
“ moonsifs, by which they would compel them  
“ to perform properly those subordinate judicial  
“ duties, which can by no other agents be so con-  
“ veniently discharged.”\*

Upon whatever class of judges the duty here described may be made to devolve, it is not likely that it should at any future period become advisable wholly to withdraw Indian judges from European superintendence. What precise proportion of judicial business they may hereafter prove competent to discharge, it is not at present necessary to inquire. If the measure succeeds, one step will naturally lead to another, and the natives will gradually be advanced, as their integrity and intelligence become manifest. Their improvement will be most steady and certain if they are not advanced too fast or too far, and if they are kept under the control of European officers qualified to expose and correct their negligence, ignorance, or corruption. If they be frequently visited by a class of officers of this description; if all practicable facility be afforded to the reception of complaints

\* Jud. and Rev. Selections, vol. ii. p. 634.

complaints against them for neglect or malversation ; and if exemplary punishment be publicly and speedily inflicted in all cases in which guilt has been established ; these changes would in themselves be a marked improvement in the administration of justice in India, and would pave the way for that amelioration in the procedure and constitution of the Indian courts which now solicits our attention.

4. Next to the benefit which it has been supposed the administration of justice in India would derive from improving the qualifications both of European and native judges, may be reckoned that which would result from a revision of the procedure and constitution of the different classes of courts established in the territories of the Company. Under the term *procedure*, all those forms and arrangements are here meant to be included, by which a cause is heard and decided in the court where it is originally brought, or by which it may be carried on appeal to any number of superior courts afterwards. Upon this branch of the subject no decided opinion can be formed, except by those who have become familiar with the details of the present system by a residence in India. Inquirers who have not enjoyed this advantage, must be satisfied to rest their conclusions upon those general principles which are supposed to be common to all systems of judicature, and upon the acknowledged effects which the system

system of judicature now prevalent in India produces.

It is but fair in this place to intimate, that the Company's officers, to whom their circular queries respecting the judicial system were addressed in 1813, have not in general expressed any decided disapprobation of the present forms of procedure ; and some of them have even declared them to be, in their judgment, as simple and convenient as circumstances would admit. A considerable proportion of those gentlemen, however, dissent from the sentiments which the majority of them have expressed, and the opinions of those who are unfavourable to the present procedure, have been confirmed by most of the authors who have written on Indian subjects, as well as by the highest authorities in the Company's service.

“ Singular as it may seem,” says Leith, “ we  
 “ have never, up to this moment, made those pro-  
 “ visions for the administration of justice, either  
 “ among Europeans or natives, which both of  
 “ these parties had a right to expect at our hands.  
 “ With respect to Europeans, it was long before  
 “ regularly educated English judges were ap-  
 “ pointed; and when that took place, as if to  
 “ counterbalance the good by the evil, the pro-  
 “ cedure before them was loaded with all the  
 “ inconvenient and misplaced technicalities of  
 “ common law and equity pleading, from which  
 “ they have not yet been completely disencum-  
 H bered.



"bered. So far as the natives were concerned,  
 "it was the original principle of the system that  
 "the laws of the natives should be administered  
 "by native judges, and that the European judges  
 "should act merely as a check upon them. But  
 "the process of the court is as much a part of  
 "the native law, as the decision which is to be  
 "made in the cause. The means should be sub-  
 "servient to the end. We have sacrificed the  
 "end to the means ; we have sacrificed the de-  
 "cision to the process. In order to maintain a  
 "regular and formal process in conformity to the  
 "special pleading of the English law, we have  
 "destroyed the effect of the sentence. A sen-  
 "tence delayed for years, frequently comes too  
 "late to remedy the grievance complained of.  
 "And to what purpose has this form of process  
 "been established ? Does it gratify the natives ?  
 "—Certainly not : they complain of it as a hard-  
 "ship. Does it benefit the government ?—So far  
 "from doing so, it incurs a heavy charge in the in-  
 "creased expense of the judicial establishment.\*"

"The regulations enacted last year," observes  
 the Marquis of Hastings, "do not proceed far  
 "enough. They still retain too much of that  
 "over-jealous spirit which pervades the whole of  
 "our regulations, and which presumes that pow-  
 "ers indispensably necessary in an executive  
 "officer

\* Leith, pp. 70 and 75.

“ officer will invariably be abused. We pay our  
 “ establishment on a scale calculated to secure  
 “ their honesty, but legislate for them as if we  
 “ had an internal conviction of their laxity. The  
 “ caution proceeds from a laudable desire to se-  
 “ cure a chaste administration of justice, but this  
 “ is thoroughly done by the unremitting inspec-  
 “ tion which all the judicial officers know to be  
 “ exercised over them.\*

“ Willing as I am to hope,” writes Secretary  
 Dowdeswell to the Court of Directors, “ that  
 “ substantial advantages will arise from the adop-  
 “ tion of the above plan, its effect must still  
 “ remain very imperfect, unless means be at the  
 “ same time taken to abridge the proceedings of  
 “ the courts of judicature, and to impose restric-  
 “ tions on the incessant references at present  
 “ made from one court to another. With regard  
 “ to the former, it cannot be denied that the  
 “ proceedings, that is, both the pleadings and  
 “ depositions, are loose, vague, and prolix to the  
 “ last degree.†

“ Delay arises in some measure,” say the  
 Directors themselves, when alluding to the delay  
 which takes place in hearing appeals to the King  
 in council, “ from the nature of the tribunal to  
 “ which

\* Judicial Papers laid before the House of Commons, res-  
 pecting the East-India Company, 1819, p. 157; see also the  
 Vice-President's letter, *ib.* p. 79. † *ib.* p. 90.

“ which this appeal is made ; but it is also to be  
“ imputed, in no inconsiderable degree, to the  
“ very great length of the pleading in the courts  
“ abroad. We direct that the attention of the  
“ different courts subject to our government  
“ should be called to this point ; that, so far as  
“ shall be consistent with justice and the esta-  
“ blished regulations, they may discourage and  
“ prevent all unnecessary repetition and amplifi-  
“ cation in their records. The inconveniences  
“ resulting from useless length are too manifest to  
“ require to be repeated.”\*

We have, therefore, the opinions of several judges, a chief secretary to government, a governor-general, and the Directors themselves, all bearing decided testimony against the cumbrousness and prolixity of the forms and proceedings now followed in the administration of justice. How does it happen then, that in so important a matter, about which those in whom the legislative and executive powers of the Company are vested so fully agree, no efficient reformation should have been hitherto attempted? By suffering twelve years to pass in total inactivity, since the confessions just quoted were recorded, the Company and their officers have established a case against themselves

\* Judicial Papers laid before the House of Commons respecting the East-India Company, 1819, p. 157 ; and also another letter, p. 10.

themselves which no ingenuity can explain away. Good words and good intentions signify nothing, unless they are followed by corresponding actions. The Company's judges and subjects are both of them as much oppressed by these forms and proceedings as ever, and must continue to be so until they are relieved by practical reformation. In what manner and to what degree that reformation may be most effectually attained, can be pointed out only by those to whom the details of judicial procedure have been long familiar. It may be collected, however, from those who have written or given evidence on the subject, that one of the practicable improvements which might be introduced would be, to simplify and abridge the forms by which the English administration of justice has, in every quarter of the world, been overloaded. Another would be, to supersede altogether the necessity of recording the proceedings in cases below a certain value. To what extent this might safely be carried, it would be difficult to say ; but the degree to which recording is now practised seems to be singularly preposterous. One of the Company's officers has alluded to a case in which the expense of recording the judgment and proceedings, actually exceeded the value of the question respecting which the judgment was recorded. A third method, which has been proposed for the promotion of the same end, is that of imposing some restriction on the endless

less privilege of appeal, which is so striking a characteristic of our present Indian judicature, and which the expense it causes to the government, the labour it imposes on the judges, and the expense, delay, and anxiety it entails upon the parties, all point out as well worthy of close investigation. "The object seems to be," Mr. Secretary Dowdeswell says, "to afford to the suitors the benefit of a double trial in each case; that is, that the suits tried in the first instance by the registers and native commissioners, should be appealable to the zillah and city courts; that the suits tried by the zillah and city judges should be appealable to the provincial courts; and that the suits tried by these last-mentioned courts should be appealable to the Sudder Dewanee Adawlut. But are we quite certain that by thus encouraging the suitors to look to the decision of another tribunal than that before which suits are tried in the first instance, and thus keeping alive a spirit of litigation throughout the country, we really confer any benefit on its inhabitants?"\* "The facility of appeal," continues Lord Hastings to the same effect, "is founded on a most laudable principle of securing, by double and treble checks, the pro-  
" per

\* Secretary Dowdeswell's Letter to the Directors, in Judicial Papers respecting the East-India Company, laid before the House of Commons in 1819, p. 88.

“ per decision of all suits; but the Utopian  
 “ idea, in its attempt to prevent individual in-  
 “ jury from a wrong decision, has been produc-  
 “ tive of general injustice, by withholding re-  
 “ dress, and general inconvenience by perpe-  
 “ tuating litigation. The peace of society and  
 “ the general welfare of the state are less con-  
 “ cerned that questions of *meum* and *tuum*  
 “ should be well decided, than that the ground  
 “ of contention should cease.”\*

The deliberate opinion of two such able and confidential officers is of itself nearly conclusive authority on the point to which it relates, and on the present occasion the clearness of the case requires no other to be offered. There are at present in India four gradations of courts. First, there are the courts of the registers, aumeens, or native commissioners, which, though judges of an essentially different character, may be placed in the same rank. Then there are the judges of the zillah and city courts—then the provincial judges—then the supreme courts of Sudder Dewannee Adawlut and Sudder Adawlut,—from which last there is, in cases above five thousand pounds, an appeal to the King in council in England. As every cause may be heard before two of these  
 courts,

\* Secretary Dowdeswell's Letter to the Directors, in Judicial Papers respecting the East-India Company, laid before the House of Commons in 1819, p. 154.

courts, and most causes may be brought before three or four of them in succession, it is natural to ask how so many degrees of courts and stages of appeal came to be necessary in a country where both laws and lawyers, in the proper signification of the terms, are absolutely unknown? Nothing is so expensive and exhausting to the suitor, or unfavourable to the able examination of a cause, as numerous degrees of indifferent judges; and when their degrees are numerous, they invariably become indifferent. One class, at least, out of the four now enumerated, might be reduced with safety, and of these, perhaps, the supreme courts of Adawlut could be spared most easily. If the district moonsiffs advance in ability and reputation, as they at present promise to do, they will be able to undertake the duties now performed by the zillah judges, who might then superintend the moonsiffs in the same manner in which they themselves are now superintended by the provincial judges, and might also despatch the circuit and criminal business, which the provincial judges now do. The Sudder Adawluts would then supply the vacant place of the provincial courts, either adopting their name or retaining their own, as might be thought most expedient, and from them an appeal would lie to the King in council, as it now does.

This proposal is offered merely by way of illustration of what it is desirable to accomplish. Those  
who

who are conversant with the subject, may see insurmountable obstacles to any modification of the plan now suggested; but the objections which may be started to any specific proposal, cannot affect the grounds upon which the abolition of at least one of the stages of appeal seems advisable. Should it not prove impracticable to substitute Sudder Adawluts for provincial courts, if such an alteration were made, one or two very salutary effects would follow. It would increase the number of supreme courts throughout India, which are at this moment urgently demanded. To compel a plaintiff or defendant to send his documents or witnesses a thousand miles off, or even to go himself to that distance to watch the progress of his cause, is in itself an act of the most severe oppression. The Marquess of Hastings, accordingly, very considerably and wisely, proposed to erect another Sudder Adawlut in the upper part of Bengal, for the benefit of all the Company's subjects who were placed at an extremely remote distance from Calcutta;\* and if as many Sudder Adawluts were erected as there are now provincial courts throughout the three presidencies, they would not be too numerous. They would, upon the whole, cause no additional expense; the responsibility attached to the judges would

\* Judicial Papers respecting the East-India Company, laid before the House of Commons in 1819, p. 156.



would probably insure a supply of abler lawyers ; and the benefit of bringing what would be regarded as the best sort of justice so much nearer to the residence of the bulk of the community, would be gratefully acknowledged by the mass of the people. The multiplication of supreme courts would also, by the exercise of those large powers with which none but supreme courts can be safely entrusted, more effectually secure the punishment of inferior officers who may be convicted of malversation. The corruption of ministerial servants attached to courts of justice is the theme of universal lamentation among writers upon Indian subjects. It appears to prevail as much in the face of our authorities as it ever did under the sway of their most arbitrary sovereigns. The transactions which took place at Canara in 1813 have been already alluded to, and Mr. Tytler, who was himself a judge, in speaking of the difference between the administration of justice in England and in India, asserts that, “ the horrid  
“ corruption of the natives forms of itself a  
“ material difference. It is a glorious reflection  
“ to think, that in England a corrupt officer can-  
“ not escape remark and detection ; but corrup-  
“ tion in India among natives is common, un-  
“ heeded, and undetected.”\*

It is impossible to deny that a power ought to  
be

\* Tytler on India, vol. i. p. 199.

be lodged somewhere, of inflicting immediate and condign punishment upon offences such as are here described. Our present practice in this respect combines the vices of every judicial system which has been yet invented. It neither possesses the purity of the tedious judicature established in moral and enlightened states, nor the salutary vengeance which occasionally characterizes that of the barbarous and despotic. The continuance of the trammels now imposed upon European judges, neither suits the country nor the people. The Company enacts and threatens, but its threats are never executed. It therefore well deserves attention, whether the principles and maxims by which the Company has acted ought not to undergo revision. A single example of punishment immediately inflicted, would strike more terror than a thousand threats and regulations; and indeed it is by this kind of severity alone that the Company can inspire that salutary awe amongst its judicial native servants, which would itself be an improvement of the most efficient description.

5. Another proposal which has been suggested for the improvement of the administration of justice in India is, the introduction of trial by jury. Such a measure has of late engaged the attention of the Company's, servants as well as of the most enlightened portion of our subjects in the East. At first sight, the introduction of it,  
in

in the present state of society in that part of the world, undoubtedly appears to be premature. Inestimable as the value of trial by jury is acknowledged to be, those who reason about law or justice have hitherto supposed that it can never be instituted with any chance of success, unless the class of persons from which jurymen are taken be distinguished both for probity and intelligence. In each of these qualifications the bulk of the inhabitants of the Asiatic colonies of his Majesty and the East-India Company are admitted to be extremely deficient. Yet it singularly happens that trial by jury has been established under his Majesty's government on the island of Ceylon for the last thirteen or fourteen years; and as the circumstances connected with its introduction are highly interesting in themselves, and not so generally known as they deserve to be, I shall here insert a letter in explanation of them, written by Sir Alexander Johnston, who originally suggested the measure in 1809, and who executed it under the sanction of the Great Seal, in 1811. The letter is addressed to the President of the Board of Control, and dated 26th May 1825:—

“ I have the pleasure, at your request, to give  
“ you an account of the plan I adopted while chief  
“ justice and first member of his Majesty's council  
“ on Ceylon, for introducing trial by jury into that  
“ island, and for extending the right of sitting  
“ upon juries to every half-cast native, as well as  
“ to

“ to every other native of the country, to what-  
“ ever cast or religious persuasion he might  
“ belong. I shall explain to you the reasons  
“ which induced me to propose this plan, the  
“ mode in which it was carried into effect, and  
“ the consequences with which its adoption has  
“ been attended.

“ The complaints against the former system  
“ for administering justice on Ceylon, were, that  
“ it was dilatory, expensive, and unpopular. The  
“ defects of that system arose from the little value  
“ which the natives of the country attach to a  
“ character for veracity; from the total want of  
“ interest which they manifested for a system, in  
“ the administration of which they themselves  
“ had no share; from the difficulty which Euro-  
“ pean judges, who were not only judges of law,  
“ but also judges of fact, experienced in ascer-  
“ taining the degree of credit which they ought  
“ to give to native testimony; and finally, from  
“ the delay in the proceedings of the court, which  
“ were productive of great inconvenience to the  
“ witnesses who attended the sessions, and great  
“ expense to the government which defrayed  
“ their costs. The obvious way of remedying  
“ these evils in the system of administering justice  
“ was, first, to give the natives a direct interest  
“ in that system, by imparting to them a consi-  
“ derable share in its administration; secondly,  
“ to give them a proper value for a character for  
“ veracity,

“ veracity, by making such a character the con-  
“ dition upon which they were to look for respect  
“ from their countrymen, and that from which  
“ they were to hope for promotion in the service  
“ of their government; thirdly, to make the  
“ natives themselves, who from their knowledge  
“ of their countrymen can decide at once upon  
“ the degree of credit which ought to be given  
“ to native testimony, judges of fact, and thereby  
“ shorten the duration of trials, relieve witnesses  
from a protracted attendance on the courts,  
and materially diminish the expense of the  
government.

“ The introduction of trial by jury into Ceylon,  
and the extension of the right of sitting upon  
juries, to every native of the island, under cer-  
tain modifications, seemed to me the most ad-  
visable method of attaining these objects. Hav-  
ing consulted the chief priests of the Budhoo  
religion, in as far as the Cingalese in the south-  
ern part of the island, and the Brahmins of  
Remissuram Madura and Jafna in as far as the  
“ Hindoos of the northern part of the island were  
“ concerned; I submitted my plan for the intro-  
“ duction of trial by jury into Ceylon, to the  
“ governor and council of that island. Sir T.  
“ Maitland, the then governor of the island, and  
“ the other members of the council, thinking the  
adoption of my plan an object of great im-  
portance to the prosperity of the island, and  
“ fearing

“ fearing lest objections might be urged against  
 “ it in England, from the novelty of the measure,  
 “ no such rights as those which I proposed to  
 “ grant to the natives of Ceylon ever having  
 “ been granted to any native of India, sent me  
 “ officially, as first member of the council, to  
 “ England, with full authority to urge in the  
 “ strongest manner the adoption of the measure,  
 “ under such modifications as his Majesty’s minis-  
 “ ters might, on my representations, deem ex-  
 “ pedient. After the question had been maturely  
 “ considered in England, a charter passed the  
 “ great seal, extending the right of sitting upon  
 “ juries, in criminal cases, to every native of  
 “ Ceylon, in the manner in which I had proposed;  
 “ and on my return to Ceylon with this charter  
 “ in November 1811, its provisions were imme-  
 “ diately carried into effect by me. In order to  
 “ enable you to form some idea of the manner in  
 “ which the jury trial is introduced amongst the  
 “ natives and half-casts of Ceylon, I shall explain  
 “ to you first, what qualifies a native of Ceylon to  
 “ be a jurymen; 2dly, how the jurymen are sum-  
 “ moned at each session; 3dly, how they are  
 “ chosen at each trial; and 4tily, how they re-  
 “ ceive the evidence, and deliver their verdict.

“ Every native of Ceylon, provided he be a  
 “ freeman, has attained the age of twenty-one,  
 “ and is a permanent resident in the island, is  
 “ qualified to sit on juries. The fiscal or sheriff  
 “ of

“ of the province, as soon as a criminal session is  
“ fixed for his province, summons a considerable  
“ number of jurymen of each cast, taking parti-  
“ cular care that no jurymen is summoned out of  
“ his turn, or so as to interfere with any agricul-  
“ tural or manufacturing pursuits in which he  
“ may be occupied, or with any religious cere-  
“ mony at which his cast may require his atten-  
“ dance. On the first day of the session the  
“ names of all the jurymen who are summoned  
“ are called over, and the jurymen, as well as all  
“ the magistrates and police officers, attend in  
“ court, and hear the charge delivered by the  
“ judge. The prisoners are then arraigned ; every  
“ prisoner has a right to be tried by thirteen jury-  
“ men of his own cast, unless some reason why  
“ the prisoner should not be tried by jurymen of  
“ his own cast, can be urged to the satisfaction  
“ of the court, by the advocate fiscal, who on  
“ Ceylon holds an office very nearly similar to  
“ that held in Scotland by the lord advocate, or  
“ unless the prisoner himself, from believing peo-  
“ ple of his own cast to be prejudiced against  
“ him, should apply to be tried, either by thirteen  
“ jurymen of another cast, or by a jury composed  
“ of half-casts, or Europeans. As soon as it is  
“ decided of what cast the jury is to be com-  
“ posed, the register of the court puts into an urn  
“ which stands in a conspicuous part of the court,  
“ a very considerable number of the names of  
“ : “ jurymen

“ jurymen of that cast, out of which the jury is  
 “ to be formed ; he continues to draw the names  
 “ out of the urn, the prisoner having a right to  
 “ object to five peremptorily, and to any number  
 “ for cause until he has drawn the names of thir-  
 “ teen jurymen who have not been objected to.

“ These thirteen jurymen are then sworn ac-  
 “ cording to the form of their respective religions,  
 “ to decide upon the case according to the evi-  
 “ dence, and without partiality. The advocate  
 “ fiscal then opens the case for the prosecution  
 “ (through an interpreter if necessary) to the  
 “ judge, and proceeds to call all the witnesses  
 “ for the prosecution, whose evidence is taken  
 “ down (through an interpreter if necessary) in  
 “ the hearing of the jury, by the judge, the jury  
 “ having a right to examine, and the prisoner to  
 “ cross-examine any of the above witnesses. When  
 “ the case for the prosecution is closed, the pri-  
 “ soner states what he has to urge in his defence,  
 “ and calls his witnesses, the jury having a right  
 “ to examine, and the prosecutor to cross-examine  
 “ them, their evidence being taken down by the  
 “ judge. The prosecutor is seldom or ever, except  
 “ in very particular cases, allowed to reply or call  
 “ any witnesses in reply.

“ The case for the prosecution and for the pri-  
 “ soner being closed, the judge (through an in-  
 “ terpreter when necessary) recapitulates the  
 “ evidence to the jury from his notes, adding



“ such observations from himself as may occur to  
“ him on the occasion. The jury, after deliberat-  
“ ing upon the case, either in the jury box, or if  
“ they wish to retire, in a room close to the court,  
“ deliver their verdict through their foreman in  
“ open court, that verdict being the opinion of  
“ the majority of them ; the most scrupulous care  
“ being taken that the jury never separate nor  
“ communicate with any person whatever, from  
“ the moment they are sworn till their verdict,  
“ having been delivered as aforesaid, has been  
“ publicly recorded by the register. The num-  
“ ber of native jurymen of every cast on Ceylon  
“ is so great, and a knowledge before-hand what  
“ persons are to compose a jury in any particular  
“ case is so uncertain, that it is almost impossible  
“ for any person, whatever may be his influence  
“ in the country, either to bias, or to corrupt a  
“ jury.

“ The number of jurymen that are returned by  
“ the fiscal or sheriff to serve at each session, the  
“ impartial manner in which the names of the  
“ jurymen are drawn, the right which the prisoner  
“ and prosecutor may exercise of objecting to  
“ each jurymen as his name is drawn, the strict-  
“ ness which is observed by the court in prevent-  
“ ing all communication between the jurymen,  
“ when they are once sworn, and every other  
“ person till they have delivered their verdict,  
“ give great weight to their decision. The na-  
“ tive

" tive jurymen being now judges of fact, and the  
 " European judges only judges of law, one  
 " European judge only is now necessary, where  
 " formerly, when they were judges both of law  
 " and fact, two, or sometimes three were neces-  
 " sary. The native jurymen, from knowing the  
 " different degrees of weight which may safely be  
 " given to the testimony of their countrymen,  
 " decide upon questions of fact with so much  
 " more proptitude than Europeans could do, that  
 " since the introduction of trial by jury, no trial  
 " lasts above a day, and no session above a week  
 " or ten days at furthest, whereas before the in-  
 " troduction of trial by jury, a single trial used  
 " sometimes to last six weeks or two months, and  
 " a single session not unfrequently for three  
 " months. All the natives who attend the courts  
 " as jurymen, obtain so much information during  
 " their attendance, relative to the modes of pro-  
 " ceeding and the rules of evidence, that, since  
 " the establishment of jury trial, government  
 " have been enabled to find amongst the half-  
 " casts and native jurymen, some of the most  
 " efficient and respectable native magistrates in  
 " the country, who, under the controul of the  
 " supreme court, at little or no expense to go-  
 " vernment, administer justice in inferior offences  
 " to the native inhabitants.

" The introduction of the trial by native juries,  
 " at the same time that it has increased the  
 " efficiency

“ efficiency and despatch of the courts, and has  
“ relieved both prisoners and witnesses from the  
“ hardships which they incurred from the delay  
“ of the criminal sessions, has, independent of the  
“ savings it enabled the Ceylon government to  
“ make immediately on its introduction, since  
“ afforded that government an opportunity of  
“ carrying into effect, in the judicial department  
“ of the island, a plan for a permanent saving of  
“ ten thousand pounds a year, as appears by my  
“ report quoted in page 8 of the printed collec-  
“ tion of papers herewith sent. No man whose  
“ character for honesty or veracity is impeached  
“ can be enrolled on the list of jurymen; the cir-  
“ cumstance of a man's name being upon the  
“ jury roll is a proof of his being a man of unex-  
“ ceptionable character, and is that to which he  
“ appeals in case his character be attacked in a  
“ court of justice, or in case he solicits his  
“ government for promotion in their service. As  
“ the rolls of jurymen are revised by the Supreme  
“ Court at every session, they operate as a most  
“ powerful engine in making the people of the  
“ country more attentive than they used to be in  
“ their adherence to truth. The right of sitting  
“ upon juries has given the natives of Ceylon a  
“ value for character, which they never felt  
“ before, and has raised in a very remarkable  
“ manner the standard of their moral feelings.

“ All the natives of Ceylon who are enrolled as  
“ jurymen,

“ jurymen, conceive themselves to be as much a  
“ part, as the European judges themselves are,  
“ of the government of their country, and there-  
“ fore feel, since they have possessed the right of  
“ sitting upon juries, an interest which they never  
“ felt before in upholding the British government  
“ of Ceylon. The beneficial consequence of  
“ this feeling is strongly exemplified in the dif-  
“ ference between the conduct which the native  
“ inhabitants of the British settlements on Ceylon  
“ observed in the Kandian war of 1803, and that  
“ which they observed in the Kandian war of  
“ 1816. In the war between the British and  
“ Kandian government in 1803, which was before  
“ the introduction of trial by jury, the native in-  
“ habitants of the British settlements were, for  
“ the most part, in a state of rebellion. In the  
“ war between the same governments in 1816,  
“ which was five years after the introduction of  
“ trial by jury, the inhabitants of the British set-  
“ tlements, so far from shewing the smallest  
“ symptom of dissatisfaction, took, during the  
“ very heat of the war, the opportunity of my  
“ return to England, to express their gratitude,  
“ through me, to the British government, for the  
“ valuable right of sitting upon juries, which had  
“ been conferred upon them by his present Ma-  
“ jesty, as appears by the addresses contained  
“ from page 16 to page 50, in the printed papers  
“ herewith sent.

“ The

“ The charge delivered by my successor, the pre-  
“ sent chief justice of the island, in 1820, con-  
“ tains the strongest additional testimony which  
“ could be afforded of the beneficial effects which  
“ were experienced by the British government  
“ from the introduction of trial by jury amongst  
“ the natives of the island : see that charge in  
“ pages 289 and 290 of vol. x. of the Asiatic  
“ Journal. As every native jurymen, whatever  
“ his cast or religion may be, or in whatever  
“ part of the country he may reside, appears  
“ before the supreme court once at least every  
“ two years ; and as the judge who presides de-  
“ livers a charge at the opening of each session,  
“ to all the jurymen who are in attendance on the  
“ court, a useful opportunity is afforded to the  
“ natives of the country, by the introduction of  
“ trial by jury, not only of participating them-  
“ selves in the administration of justice, but also  
“ of hearing any observations which the judges,  
“ in delivering their charge, may think proper to  
“ make to them with respect to any subject which  
“ is connected, either with the administration of  
“ justice, or with the state of society or morals  
“ in any part of the country. The difference  
“ between the conduct which was observed by  
“ all the proprietors of slaves on Ceylon in 1806,  
“ which was before the introduction of trial by  
“ jury, and that which was observed by them in  
“ 1816, which was five years after the introduc-  
“ tion

“ tion of trial by jury, is a strong proof of the  
 “ change which may be brought about in public  
 “ opinion, by the judges availing themselves of the  
 “ opportunity which their charging the jury on  
 “ the first day of the session affords them of cir-  
 “ culating amongst the natives of the country,  
 “ such opinions as may promote the welfare of  
 “ any particular class of society.

“ As the right of every proprietor of slaves  
 “ to continue to hold slaves on Ceylon, was  
 “ guaranteed to him by the capitulation under  
 “ which the Dutch possessions had been surren-  
 “ dered to the British arms in 1795, the British  
 “ government of Ceylon conceived that, however  
 “ desirable the measure might be, they had not a  
 “ right to abolish slavery on Ceylon by any legis-  
 “ lative act: a proposition was however made on  
 “ the part of government by me, to the proprie-  
 “ tors of slaves, in 1806, before trial by jury was  
 “ introduced, urging them to adopt some plan of  
 “ their own accord for the gradual abolition of  
 “ slavery; this proposition, they at that time una-  
 “ nimously rejected. The right of sitting upon  
 “ juries was granted to the inhabitants of Ceylon  
 “ in 1811. From that period I availed myself of  
 “ the opportunities which were afforded to me,  
 “ when I delivered my charge at the commence-  
 “ ment of each session to the jurymen, most of  
 “ whom were considerable proprietors of slaves,  
 “ of informing them of what was doing in Eng-  
 “ land

“ land upon the subject of the abolition of slavery,  
“ and of pointing out to them the difficulties  
“ which they themselves must frequently expe-  
“ rience, in executing with impartiality their  
“ duties as jurymen, in all cases in which slaves  
“ were concerned. A change of opinion upon the  
“ subject of slavery was gradually perceptible  
“ amongst them, and in the year 1816 the pro-  
“ prietors of slaves of all casts and religious  
“ persuasions in Ceylon, sent me their unanimous  
“ resolutions, to be publicly recorded in court,  
“ declaring free all children born of their slaves  
“ after the 12th of August 1816, which in the  
“ course of a very few years must put an end to  
“ the state of slavery, which had subsisted on  
“ Ceylon for more than three centuries.”

Such is the detail of the original establishment of trial by jury on Ceylon. Its history is carried on by Sir H. Giffard, the successor of Sir A. Johnston in the chief-justiceship of the colony, who, at the opening of the courts in September 1820, expressed himself to the following effect:—

“ There is one feature in the history of offences  
“ for the last two years so remarkable, that it  
“ cannot, without injustice to the people, be  
“ overlooked. It has been my duty to examine  
“ the criminal calendars of that period, with a  
“ view to inform myself of the state of offences  
“ generally, and I have been both surprised and  
“ gratified to observe, that during this interval—

“ an

“ an interval marked by violence and convulsion  
 “ in the interior—there does not appear to have  
 “ occurred in our maritime provinces a single  
 “ instance of even a charge of turbulence, sedi-  
 “ tion, or treason, or of any offence bearing the  
 “ slightest tinge of a political character. It is  
 “ too well recorded, and is within the personal  
 “ knowledge of some of yourselves, that, during  
 “ the Kandyan war of 1803, the revolt of some  
 “ of our maritime districts added in no slight  
 “ degree to the difficulties of that melancholy  
 “ period. To what are we to attribute so remark-  
 “ able a change? Certainly not to the superior  
 “ character of the government. In mildness and  
 “ benevolence, Mr. North’s administration was  
 “ assuredly not exceeded by that of any of his  
 “ successors. But, gentlemen, let us ascribe it to  
 “ the true causes;—to the long and steady ex-  
 “ perience of the blessings of a government ad-  
 “ ministered on British principles; and, above all,  
 “ to the introduction of trial by jury. To this  
 “ happy system, now I may venture to say deeply  
 “ cherished in the affections of the people, and  
 “ revered as much as any of their own oldest and  
 “ dearest institutions, I do confidently ascribe this  
 “ pleasing alteration; and it may be boldly as-  
 “ serted, that while it continues to be adminis-  
 “ tered with firmness and integrity, the British  
 “ government will hold an interest in the hearts  
 “ of the Cingalese subjects, which the Portuguese  
 “ and



“ and Dutch possessors of this island were never  
 “ able to establish. It may appear, and with  
 “ justice, that I indulge some degree of personal  
 “ gratification on referring to this subject, when I  
 “ tell you, that in a report made to the government  
 “ of Ceylon, in June 1817, by the advocate-fiscal  
 “ of that period, there is contained an observation  
 “ which shows that this feeling is not new, and we  
 “ know how fully it has been justified by subse-  
 “ quent events. In that document it is said,  
 “ *Among the inhabitants of the maritime provinces,*  
 “ *I know the jury system (this was in the seventh*  
 “ *year of its operation) to be already a favourite.*  
 “ *The wisdom of the supreme court has most happily*  
 “ *adapted it even to their prejudices, so that they*  
 “ *had actually begun to feel attachment to it on that*  
 “ *account, even before they were aware of all its*  
 “ *advantages.”\**

The continuance of its success rendered Sir  
 Alexander Johnston's experiment so much the  
 subject of conversation in India, that it at last  
 attracted the attention of the Bombay government;  
 and when the administration of justice in that  
 presidency was under revision, on the late exten-  
 sion of our territories in that quarter, the governor  
 sent round some queries to some of the best-  
 informed judicial and military servants of the  
 Company, requesting their opinion respecting the  
 expe-

\* Asiatic Register, vol. x. p. 289.

expediency of introducing trial by jury, in criminal cases, in the Deccan. The opinions lately published by the East-India Company, in the Judicial and Revenue Selections, which were received in answer to these queries, are in number sixteen. Of these eight are in favour of the measure, and eight against it; but it would appear that, besides these sixteen, other opinions must have been delivered, as the committee appointed to report has declared the greater part of those which were given to be unfavourable, while so far as appears from the report, they are equally divided.\* The question is examined with great acuteness and candour by those who have taken opposite sides, and the opinions given are generally creditable to the capacity and character of those by whom they have been delivered. Those who object to juries, rely principally on the utter incapacity of the mass of the people to discharge the duty of jurors, on account of their stupidity, ignorance, indifference, and want of principle; their dislike to the novelty of the measure; the trouble of attendance it would occasion; and the obstacles to its operation which the difference of casts must occasion. Those who are in favour of it, admit that its success would depend entirely on the wisdom of the regulations under which it might at first be established; but think that if these were judiciously drawn

\* Jud. and Rev. Selections, vol. iv. p. 922.

drawn up, jurors of sufficient acuteness and impartiality might be procured, and that their aid would not only, in many cases, materially assist the judge in eliciting the truth in judgment, but prove a material engine in improving the general character of the people. The opinion transmitted by Captain (now Colonel) Briggs shall here be inserted in its entire state, both on account of the distinguished judgment and experience he possesses upon this subject, and also for the admirable general observations it contains on the administration of justice in our Eastern colonies.

“ I have the honour to acknowledge the receipt  
“ of your letter on the subject of criminal pun-  
“ chayets, requiring me to state how they were  
“ conducted by me in Candeish, and to give my  
“ opinion as to the practicability of their being  
“ generally introduced.

“ I shall, in the first instance, explain in a few  
“ words the mode I adopted in Candeish. By  
“ some misapprehension of the instructions of  
“ the honourable the late sole commissioner, I  
“ commenced my criminal trials by assembling a  
“ punchayet, and from having been many years  
“ in the habit of superintending similar courts in  
“ the army, it did not occur to me there was any-  
“ thing strange or novel in the proceeding. The  
“ number of persons assembled were never less  
“ than five, and sometimes seven or nine. They  
“ were selected usually from among the zemindars  
“ of

“ of the pergunnah in which the criminal case was  
 “ tried, and from persons of respectability, com-  
 “ monly Brahmins, who accompany the cutcherry  
 “ on business of their own.

“ After they were assembled, they were re-  
 “ quested to select a mookh, or foreman ; and the  
 “ prisoner being brought to the bar, was told these  
 “ persons were about to hear evidence for and  
 “ against him, and to decide on his guilt, but that  
 “ if he objected to any of them, to do so. The  
 “ evidence on the prosecution was then gone into,  
 “ and subsequently the defence. At the close of  
 “ the examination of each witness, the punchayet  
 “ was applied to by me to know if anything  
 “ occurred to them, to ask more of the witness,  
 “ and the prisoner was likewise asked if he wished  
 “ to put any question. It was in this stage of the  
 “ proceedings I frequently derived assistance from  
 “ an intelligent jurymen, when, from the mode in  
 “ which the evidence was given, a further examina-  
 “ tion by him has led more clearly to elucidate an  
 “ obscure fact.

“ After the prisoner’s defence, the panchayet  
 “ or jury was then required to give its opinion as  
 “ to the prisoner’s guilt ; upon which the Shastree  
 “ was called on to pronounce the law on the case,  
 “ which was promulgated, and sentence passed  
 “ accordingly.

“ Criminal trials by jury are considered by En-  
 “ glishmen as the most sacred privilege of security  
 “ against

“ against oppression, and the basis of what is  
“ termed an Englishman’s liberty. We are in  
“ the habit of considering this a species of  
“ liberty; however, that is only calculated for  
“ a free state, the population of which, through  
“ its representatives, make its own laws. Now,  
“ although I shall not pretend to deny, that  
“ among other invaluable rights to which an  
“ Englishman lays claim, the trial by jury is one  
“ of the most importance, yet it does not appear  
“ to me, that a trial previous to punishment, by a  
“ number of his own countrymen, is a privilege  
“ which is likely to grow into a spirit of opposition  
“ to the ruling authority, however it may be in  
“ any country, or which can be particularly ob-  
“ jectionable under any government, where  
“ there is every disposition to do impartial jus-  
“ tice, and to protect its subjects from local  
“ oppression.

“ In submitting my opinion on this large sub-  
“ ject, I shall venture to look at it on a scale  
“ beyond the precincts of this province, and to  
“ discuss its merits on general grounds, and I  
“ propose, therefore, to divide it under the fol-  
“ lowing heads :—1st. What are the objections to  
“ the present criminal system, conducted without  
“ punchayets or juries? 2d. What are the ob-  
“ jections to criminal punchayets? 3d. What  
“ precedents are there for criminal punchayets  
“ under our own, or under the native govern-  
“ ments?

“ ments? First, then, as to the objections attend-  
 “ ing our present criminal system, it will hardly  
 “ be denied, that the main object of punishment  
 “ is to deter, by example, others from crime; and  
 “ to attain this object, the greater the publicity,  
 “ and the more extensive the knowledge of the  
 “ crime and punishment is spread, the more  
 “ likely is this end to be attained, and more  
 “ particularly in the vicinity of the place where  
 “ the crime has been committed. It would be  
 “ advantageous, therefore, if it were practicable,  
 “ that every trial should take place somewhere  
 “ within a convenient distance of the spot where  
 “ the crime was committed; and if a number of  
 “ respectable persons of the district, who are  
 “ likely to be well acquainted with the character  
 “ of the prisoner, and with the merits of the case,  
 “ are assembled to investigate it, it appears to me  
 “ that publicity would by this means be best dis-  
 “ seminated; so that, while, on the one hand, the  
 “ prisoner would have all the advantage arising  
 “ out of good character in his favour, yet, on the  
 “ other hand, the fullest information would most  
 “ likely be obtained, and the consummation of  
 “ the desired publicity would be completed by  
 “ the infliction of the punishment on the spot of  
 “ commission of crime. Besides these advantages  
 “ on the score of local example, there are two  
 “ others worthy of consideration:—the first re-  
 “ lates

“ lates to evidence ; the second to the administra-  
“ tion of justice through the agency of the native  
“ population. And, first, relating to evidence.  
“ An experience of more than twenty-one years  
“ in India has impressed on me the extreme diffi-  
“ culty of any European, however intimately ac-  
“ quainted with the languages of this country,  
“ being competent to elicit properly, and to give  
“ its proper weight to native evidence. I do not  
“ borrow this opinion from the several eminent  
“ public functionaries who have already adopted  
“ it, but I am quite prepared to confirm it from  
“ the fullest conviction, and the more particularly  
“ since my duties have lately required of me the  
“ exercise of civil, judicial, and magisterial func-  
“ tions ; and it is in our deficiency in this respect  
“ I am disposed to attach considerable impor-  
“ tance to the criminal trial by punchayet or jury.  
“ On the second score, I only repeat what I  
“ have more than once observed, that the more  
“ the native population can be rendered the  
“ means of supporting and aiding in the judicial,  
“ police, and revenue duties, the more likely we  
“ are to create attachment and fidelity to the  
“ state, and to derive most of those advantages in  
“ point of information, to which as foreigners,  
“ with habits and dispositions so opposite to the  
“ inhabitants, we must long continue to remain  
“ strangers.

“ Secondly,

“ Secondly, as to what are the objections to  
 “ criminal punchayets, there are, I conceive, many  
 “ circumstances to be considered before making  
 “ them general. In the first place, punchayets,  
 “ or juries, modelled, as they must necessarily be  
 “ to render them efficient, by certain rules and  
 “ restrictions, are new ; and unless the advan-  
 “ tages considerably counterbalance the disadvan-  
 “ tages, they should be introduced with great  
 “ caution, like all other innovations. To render  
 “ them popular, the duties of jurors must fall light  
 “ on the people, and individuals must be remune-  
 “ rated according to the inconvenience they are  
 “ put to by their attendance. To render them  
 “ efficient, certain descriptions of persons must be  
 “ liable to be summoned, and compelled to attend,  
 “ under penalties to be fixed. To render them  
 “ just, jurors betraying their duty should be liable  
 “ to severe punishment as example ; and lastly,  
 “ to render it a fair court, it should be composed  
 “ of certain casts, according to the prisoners  
 “ who are to be tried. It is true that all these  
 “ subjects are matters of detail, and may be regu-  
 “ lated by specific rules ; but in such a society as  
 “ that of India, they are by no means matters of  
 “ simple arrangement.

“ Lastly, what precedents are there for crimi-  
 “ nal punchayets, under our own or under the  
 “ native governments ? And, first, under our  
 “ own government—it will immediately occur,



“ that the military law protects not only the na-  
“ tive soldier, but the meanest camp-followers  
“ from punishment without a trial by his country-  
“ men ; a privilege which he enjoys as a public  
“ servant of the government or of a military offi-  
“ cer, which is denied to the most opulent and  
“ respectable individual in civil life, living on his  
“ own fortune, and amenable to no master but the  
“ laws of the country alone. I state the fact,  
“ without contrasting the advantages either of  
“ the one mode of trial or the other ; but I can-  
“ not avoid mentioning, that the mode of investi-  
“ gation, as far as regard to feeling and rank, are  
“ likely to be much reserved on the one hand,  
“ while the same consideration is very unlikely to  
“ operate either on an European judge, or on the  
“ several minor servants of the court, from the  
“ examiner down to the sheriff’s officer who serves  
“ the writ or summons, unless to be made the  
“ plea of extortion. It is where men of cast  
“ and family are concerned, either in criminal or  
“ civil cases, that I am led to understand the  
“ rules of the courts in our old provinces  
“ are considered so obnoxious, and in the  
“ enforcing of which all those indulgences, and  
“ attentions to local prejudices and individual  
“ cast and respectability, which distinguish the  
“ system of our rule from that of all other con-  
“ querors, our predecessors in India, are trampled  
“ under foot under the blind march of impartial  
“ justice,

“ justice, which in Europe knows no distinction  
 “ of persons. This is a delicate and important  
 “ point, and is more likely to find its proper  
 “ weight and level through the influence of pun-  
 “ chayets, perhaps, than from any specific rules  
 “ of the wisest of European legislators with the  
 “ best intentions.

“ The trial by jury has, I believe, been for  
 “ some time resorted to in Ceylon, in a country  
 “ which for many years was the seat of internal  
 “ warfare and of occasional intestine insurrection.  
 “ It has hardly been in force sufficiently long to  
 “ pronounce on its advantages, or to form a test  
 “ of its excellence, though I should conceive its  
 “ inconveniences, if any existed, would ere this  
 “ have been felt, but of which I have not heard.

“ With reference to criminal punchayets under  
 “ native governments, I am of opinion that both  
 “ civil and criminal punchayets were constantly  
 “ had recourse to ; they formed the inquest of  
 “ the true state of any case, and they prepared  
 “ the question for the decision of the superior  
 “ without imposing on him any trouble ; all their  
 “ proceedings were recorded, and they concluded  
 “ by giving an opinion. This mode of adjudica-  
 “ tion in criminal matters was seldom had recourse  
 “ to but in the event of capital cases. The pun-  
 “ chayet was a select jury appointed by the chief  
 “ civil authority ; it sat, exhausted the evidence,  
 “ and pronounced its decision on the guilt of the

“ prisoner ; the shastree was then consulted as to  
“ the law, and the prince or chief passed sentence  
“ as he thought fit. The punchayet was guided  
“ by no rules of evidence ; it rejected what it  
“ considered irrelevant or unimportant, though it  
“ generally took the trouble of examining every  
“ sort, however remote from the point : but in  
“ the whole proceeding there was no fixed prin-  
“ ciple of action, and the nature of the investi-  
“ gation, therefore, depended much on the ability  
“ and the qualifications of those who were ap-  
“ pointed to the duty, as well as on the character  
“ of the accuser.

“ In concluding this subject, however, I must  
“ beg leave to submit my opinion, that to render  
“ punchayets, either civil or criminal, efficient,  
“ they must be subjected to a set of defined rules ;  
“ and in the formation of those rules both the  
“ experience and ability of European talent will  
“ be insufficient, without a full and unreserved  
“ communication of the sentiments of enlightened  
“ natives themselves, for whose benefit alone they  
“ are intended to be rendered applicable.”\*

Whether Colonel Briggs, or those who espouse  
the other side of the question, shall eventually  
appear to be right, it would be presumptuous to  
anticipate. To become the partisans of either  
side, in questions of this nature, is neither the  
best

\* Jud. and Rev. Selections, vol. iv. p. 906.

best method of discovering truth ourselves, nor of facilitating the reception of it by others. It can only be elicited by exact, patient, and extensive local observation, and this few individuals have either the opportunity or the power of exerting. When those who have travelled in India come to be closely examined about the nature and number of the facts and instances upon which their opinions rest, it will often be found that they have generalized too soon, and that they have been misled more frequently by ignorance of facts which they ought to have known, than by incorrect reasoning upon those to which they were adverting. It is very desirable that this mistake should not be committed in the present instance. I acknowledge that the introduction of jury trial at present into any part of India, appeared to me, when I first heard of it, to be premature, and that it could be accompanied with no real benefit, until the understanding and character of the inhabitants had been better prepared for its reception. But the reasoning of Colonel Briggs, and the success with which the introduction of trial by jury in Ceylon has been attended, have certainly shaken this opinion. Still the experience we have had has neither been sufficiently protracted nor extensive, to enable us to come to any positive conclusion. We must wait to see how the measure will operate throughout a considerable course of years, and during every change of circumstances.

The

The subject is so interesting and important, that it is expected to lead to further discussion in the presidencies of Bengal and Madras, as well as that of Bombay. It is extremely desirable that this should happen. Full and fair inquiry usually ends in giving a decided turn to public opinion one way or another. Should the result in this case prove inauspicious to the introduction of jury trial in any case civil or criminal, its supporters will then surrender their opinion willingly and unreservedly ; and if it be favourable, the measure will then be tried much more advantageously than if it had been forced rashly and intemperately forward

6. The last of the means which have been suggested for the improvement of justice in India, is a more extensive use of the English language in our judicial proceedings. Here also opinions have been much divided. As a general rule, there can be no doubt that one of the most effectual means by which the mother country can identify herself with her colonies, is to encourage in them the spread of her own literature and language. The Romans observed this policy with undeviating strictness, and it gave a permanent celebrity to their writers, laws, and institutions, which those of no other people have enjoyed. The Portuguese, who first reached India in modern times, promoted the knowledge and use of their own tongue with similar assiduity, and

and it is said to be still understood in every quarter of the eastern and western peninsula, along the sea-coast of all the islands, and by at least three millions of people in the inland parts of Hindostan. A corrupt dialect at least of the language of the Mussulman conquerors is still almost universally understood throughout India, under the name of Moors or Hindostannee. It is singular, then, that with the widest colonial possessions ever seen, we should have made less exertion than any country ever known, to introduce our language into common use, or even to employ it in public acts. Whenever our colonies have been extended, either by cession or conquest, we have evinced a reluctance to interfere with the language as well as the substance of their judicial proceedings, highly honourable to our motives, but probably prejudicial both to the interest of the colonists and ourselves. Not to speak of lower Canada, which remains nearly as foreign to us as it was sixty years ago, we have now possessed the Cape of Good Hope six-and-twenty years, and the Mauritius for a nearly equal period, yet Dutch is the language heard in the courts of law in the one colony, and French in the other. We have at last seen the folly of this extreme forbearance, and are taking measures to correct our error. The commissioners lately sent to inquire into the state of the courts of justice at the Cape, are said to have suggested the substitution

stitution of the English language for the Dutch in judicial proceedings in future ; and it is expected that the same recommendation will be extended to the courts in the Mauritius, to which colony the commission has since proceeded.

There seems to be no reason why the English language should not supersede Persian in India as it is likely to do Dutch and French at the Cape and the Mauritius. Persian is the language in which all criminal trials are still carried on throughout the Company's territories where either Hindoos or Mahomedans are concerned ; and where both parties are Mahomedans in civil causes also. The only reason assigned for this use of the Persian language is, that so long as the Mahomedan law is administered as it now is, by requiring the Mahomedan law officers to read the trials, and give their futwas or decisions on the cases submitted to them or read in their presence, so long the trials must be written out in Persian, with which these officers are alone familiar. Persian has, however, ceased to be a living language in any part of the world ; and although it has been alleged that the use of it ought to be as easy to European judges as to the moulavies or muftis whom they consult, it may be doubted whether a thorough command of it is ever in fact acquired either by the one or the other. It does not form the usual medium of communication between any of the races of people who appear either as  
judges,

judges, interpreters, parties, or witnesses. An English judge is said to put a question not unfrequently to the assistant native judge in Persian, the assistant native judge puts it to an interpreter in a second language, and the interpreter puts it to the witness in a third, while the prisoner is utterly ignorant of all the three that have been uttered. The fatigue and misapprehension which must unavoidably flow from such a process, are powerful reasons for endeavouring to remove every superfluous wall of partition that obstructs the intercourse between us and our fellow-subjects. As the Mahomedan criminal law, as now administered, is translated both into English and the vernacular languages of the country, it seems more rational that the Mahomedan law-officer, provided his retention be really necessary as a substitute for a jury and a safeguard to the prisoner, should be obliged to address the judge in English, than that the judge should address him in Persian. All other persons would understand English just as well as Persian, and the English judge would understand it a great deal better. It would therefore neither be necessary for him to read nor speak Persian; and the labour now bestowed on that, would make him thoroughly acquainted with the most prevalent living language of the country, by means of which he would be able to communicate directly with the parties and witnesses before him. The mere substitution  
of



of English for Persian, would alone be a great point gained. But there seems reason to expect that the use of the English language might be extended much farther. Though it be true that the slow progress of the English language in parts of Wales, Ireland, and Scotland, preclude all hope that it will ever be universally spoken or understood in India, an acquaintance with it may yet be very widely disseminated, and no means should be overlooked which are calculated to promote that useful purpose. If the native judges were to increase so much in numbers, consideration, and acquirements, as to justify the foundation of seminaries for their education, the acquisition of the English language might be made an indispensable condition of their appointment. Should it once strike its roots among the native judges, it would soon spread rapidly among all inferior officers belonging to the courts of justice, and by that means the power of superintendence which the European judges would be enabled to exercise over the natives must be incalculably increased. This is one of the most salutary consequences with which the prevalence of the English would be followed. It would render fraud on the part of subordinate Indian agents more difficult, and the detection of it more easy. The European judge would be restored to the full use of his own faculties, and suitors would have the benefit of his integrity and judgment, free from that misapprehension

hension and mistranslation, by which their efficiency is now so grievously diminished.

The last of the topics it was proposed to touch, has now been brought to a termination. It was intimated at the outset, that the means which were likely to be most efficacious for ameliorating the administration of justice in India, were a digest of the civil and criminal laws which prevail in the various parts of the Company's dominions;—the appointment of judges of higher capacity and qualifications;—the admission of the natives to a larger share of judicial duties;—a diminution of the stages of appeal;—an alteration in the system of procedure, and number of supreme courts;—the suppression of the Persian language in judicial proceedings, and the gradual substitution of the English in its stead. They are few in number and distinct in their nature, and I have endeavoured to treat them in succession as correctly and comprehensively as I am able. For any errors in statement into which I may have been inadvertently betrayed, or incorrect views of the subject I may have had the misfortune to present, I must solicit the indulgence of those to whose perusal these pages may be submitted. If it had fallen to my lot to form an opinion from personal observation of the manner in which justice in India is administered,—or had my reading given me that perfect command of its details which long and exclusive attention to the subject

subject can alone confer,—I might have been enabled to express myself with a degree of confidence more satisfactory to myself and instructive to my readers. But the difficulty of East-India subjects is known only to those by whom they have been handled. The Company has published vast and undigested masses of records and historical documents connected with their possessions, but scarcely a single syllable respecting what is perhaps of still greater moment—the means by which their executive government is conducted. Their servants are chiefly employed as political agents, judges, soldiers, police-magistrates, collectors of revenue, or in the management of their commercial concerns; but with regard to the powers, privileges, and duties of any one of these classes of functionaries—their number, distribution, and the manner in which they are selected, changed or promoted—no succinct and intelligible account has hitherto appeared. A few treatises on these subjects would be of invaluable service to the public—to the officers of the East-India Company—and even to the Directors themselves, by whom the machinery and movements of our eastern executive government are not always completely comprehended.

While I think it is to be regretted that the Company should have been so remiss in laying before their fellow-subjects at home, plain and accurate outlines of the structure and policy  
of

of their government abroad, together with the changes it has undergone, I should ill express the sentiments I entertain, if this were supposed to imply any charge against their general management and arrangements. That numerous and important mistakes have been committed in the administration of our eastern colonies, as well as in that of every other state, past or present, there can be no dispute ; but I have no hesitation to declare, that so far as I have been now led to examine their private correspondence and public conduct, they have greatly risen in my estimation. Fluctuating and ill-assorted as the individual members of the Court of Directors are, the body as a whole, has fulfilled the trust reposed in it with distinguished zeal and ability ; and the splendid talents and amiable qualities displayed by a large proportion of their chief civil and military officers, entitle them to the most distinguished honours their country can confer upon them. I believe no government in ancient or modern times can produce such an assemblage of meritorious servants. Were the government of the Company to be dissolved, we should never see their equals in India again ; and for that reason among others, whatever subordinate changes it may be made to undergo at the expiry of the present charter, those who know the affairs of this country best will probably doubt the most, whether the entire  
transference

transference of the power and patronage of the India Company to the crown, would contribute either to the welfare of the British public, or the prosperity and happiness of our Indian subjects.<sup>7</sup>

Whether it can safely be affirmed that the dominion of the Company has upon the whole proved auspicious to the inhabitants of India, is a point which has of late been questioned by some, and resolutely denied by others. I own I think there can be no doubt upon the subject. The external tranquillity we have established throughout almost every corner of India, and the just and liberal views with which the most inveterate enemies of our government cannot deny it to be generally conducted, must of necessity render our sway acceptable to the mass of the people, whom it has delivered from the uncertainty and apprehension to which they were exposed by the perpetual warfare, faithlessness, and extortion of their former rulers. “On entering any of the large Indian capitals  
“of the native princes,” says General Leith, “nothing is to be met with but pictures of chagrin and discontent. It is only in the European  
“settlements that we meet with the cheerful  
“countenance and the confident look. This contrast never fails to strike an attentive observer,  
“on returning from an Indian capital to any of  
“our great towns, such as Calcutta or Bombay.”\*

The

\* Leith, p. 78.

The effect here described by General Leith is precisely what might naturally be expected. It is inconceivable that the benefits flowing from a just and equal government, should not be felt and acknowledged by the great body of the people. But though the merits of our government have been sometimes undervalued, it is liable to certain objections which have materially detracted both from its popularity and utility. These have been acknowledged and lamented by some of the highest and ablest of the Company's servants, and admitted even by the Court of Directors themselves. The fortunes annually transmitted to England by those who are returning thither, have been complained of as a serious diminution of the capital of the country from which they are withdrawn ;—the multiplication of public-houses during our power, is said to threaten the extinction of that temperance for which the natives of the East have hitherto been so remarkable ;\*—the inefficiency of our police is said neither to render person nor property sufficiently secure ;†—the rapid succession of Europeans prevents those in power from ever thoroughly learning the actual circumstances and interests of the country ;‡—the contemptuous and haughty air with which too many of the European servants of the  
Company

\* Tucker's View of the Revenue System, p. 75.

† Colonel Stewart, p. 76.

‡ Lord Teignmouth's Memoirs, Fifth Report, p. 169.

Company bear themselves towards the native aristocracy ;—the little pains they evince to cultivate with them any sort of kind or useful intercourse ;\*—and above all, the total exclusion of the natives from every office of dignity or emolument, have conspired to prevent the mass of the population from entertaining that profound esteem and affection for our authority, which every friend to the honour and interest of his country must wish them to cherish.†

To these grievances the Company are bound to apply every practicable alleviation. They must do more. They must apply themselves to the construction of roads, bridges, tanks, canals, and embankments ;‡ and, by means of instruction, arts, and manufactures, strenuously endeavour to improve the public and private condition of the people. I am fully aware of the apprehension which the slightest allusion to the first of these topics creates in the minds of many estimable persons, who still are, or formerly were, connected

with

\* Mr. Chaplin's Report in *Jud. and Rev. Selections*, vol. ii. p. 193.

† Colebrooke's Remarks ; Tytler's *India*, vol. i. p. 16, *introd.* and p. 359 ; Elphinstone's *Cabul*, pp. 424, 432 ; Malcolm's *History of Persia*, vol. i. p. 552 ; Malcolm's *Political History of India*, p. 380 ; Prinsep, p. 66, *et seq.*, and pp. 210, 211, and 330 ; Colonel Stewart, pp. 23, 66, and 67 ; Mr. Chaplin's Report in papers laid before the House of Commons in 1819, p. 145 ; Letter of the Court of Directors, *ib.* p. 28 ; Letter of the Marquess of Hastings, *ib.* 157 and 159.

‡ Tucker's *Thoughts on the Revenue System of India*, p. 47.

with the service of the Company. They deprecate the most distant change in the moral or intellectual character of the natives. In their judgment, 'our strength is to sit still;' but they forget that this policy, even though it were better and wiser than I believe it to be, is impossible. That no just cause of offence should be given to the natives by any harsh or precipitate interference with their manners, customs, prejudices, or religion, is a rule which ought to be most strictly observed both by government and individuals. But beyond this we neither can nor ought to go. It would be fatal for us to remain inactive, while the whole fabric of society is undergoing transformation. We buy from them their own raw cotton, transport it to England, and send it back to India in a manufactured state, cheaper than it can be produced by their own cheapest manual labour; we have accustomed them to the use of our broad-cloths, glass, and cutlery; we have prevailed upon the Sepoys to undertake sea voyages, to which their religion inculcated upon them the most determined aversion; priests now conduct Europeans over temples within which, ten or fifteen years ago, no Christian foot was permitted to tread; missionaries have translated the scriptures into all the chief dialects of the country; nearly a third more natives now understand and speak English in the most civilized parts of Bengal, than did so only ten years ago; some natives who have never

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been



been out of India now write English with a degree of facility and correctness perfectly surprising ; two and twenty periodical publications are now established in Bengal, Madras, and Bombay ;\* the reverence for cast is fast wearing out among those who have much communication with us, notwithstanding the strenuous efforts that are taken to prevent it ;† 40,000 children are now instructed by the missionaries in English and other branches of learning ;‡ and in the chief towns Europeans and natives have entered into the closest and most endearing associations, both for the purposes of commerce, charity, and religion. §  
 These

\* In Bengal, the Government Gazette, twice a week ; the India Gazette, twice a week ; John Bull, daily ; the Colombian Gazette, twice a week ; the Weekly Messenger, once a week ; the Oriental Magazine, quarterly ; the Asiatic Magazine, monthly ; the Friend of India, quarterly ; the Hurkaru, daily ; the Summachar Durpur, weekly ; the Surgbud Cowmuddy, weekly ; two other native newspapers, weekly ; and the Brahminical Magazine, monthly. At Madras, the Madras Government Gazette, weekly ; the Madras Gazette, weekly ; the Madras Courier, weekly ; and the Monthly Magazine. And at Bombay, the Bombay Courier, weekly ; the Bombay Gazette, weekly ; the Bombay Chronicle, weekly ; and one native newspaper. Besides these, there is a weekly Gazette in Ceylon ; a Gazette at Penang ; an Indo-Chinese Gleaner at Malacca ; and a Chronicle at Singapore.

† Marquess of Hastings' Letter, in Papers laid before the House of Commons in 1819, p. 158.

‡ British and Foreign School Society, Twentieth Report, p. 23.  
 § Prinsep, p. 264.

These are mighty changes in themselves, and must eventually lead to others still more important. The India Company is placed in the midst of a smooth but rapid tide, of which they may direct but cannot resist the progress. Those who conduct the affairs of kingdoms in the cabinet or the field, can seldom create the circumstances in which they would desire to act. Their conduct must be judged by what they can, and not by what they would wish to accomplish, as no other resource is frequently left them than to alleviate the shock of a crisis which they foresee to be inevitable. The governors of India are now in this situation. The condition of that country must advance, and it is not the interest of the Company to retard it. In the meanwhile the numbers of the Anglo-Indians will go on increasing; and to that orderly, amiable, and intelligent class of subjects, whom it is so much the duty of the Company to encourage and attach, it ought to extend every privilege which can practicably be conceded to them. Last of all will come the subject of colonization; the most perplexing perhaps of all those connected with our Indian empire. But under some modification or other it will at no distant period force its way forward. Fully peopled, as most parts of Hindostan are, and inconvenient as colonization in many respects must prove, British industry, enterprize, and capital, now that the trade has been thrown open, will gradually insinuate themselves into every

every part of the country ; and most probably, the interest of the natives, of the mother-country, and of the Indian Government, will all conspire to ratify their introduction.

Should it be urged, that all these innovations obviously tend to the ultimate separation and independence of our Eastern colonies, there is no cause why the fact should excite either surprise or apprehension. To reason calmly about an event that is inevitable, will neither cause it to happen more quickly, nor make it more detrimental when it happens. That ninety millions of Indians should permanently submit to five thousand Europeans, deriving their support from a country so many thousand miles distant, is an idle expectation. It cannot be realized without a combination and continuance of circumstances, of which no example occurs in past history, nor is likely to be furnished by the future. It was beautifully said by a late amiable and distinguished member of the House of Commons, that—“ Our  
“ Oriental empire indeed is now a vast edifice ;  
“ but the lofty and spacious fabric rests on the  
“ surface of the earth without foundations.  
“ The trunk of the tree is of prodigious dimen-  
“ sions, and there is an exterior of gigantic  
“ strength. It has spread its branches widely  
“ around it, and there is an increasing abundance  
“ of foliage and of fruit ; but the mighty mass  
“ rests on the ground merely by its superincum-  
“ bent

“ bent weight, instead of having shot its roots into  
“ the soil, and incorporated itself with the parent  
“ soil beneath it. Who does not know that the  
“ first great storm would probably lay such a giant  
“ prostrate?” \*

It is astonishing to hear with what indifference the approach of such a storm is regarded by some philanthropists and political economists in our own country, and what erroneous speculations they construct upon it. Should it arrive for ages yet to come, it would prove an almost irrecoverable blow to the greatness of England, and not less injurious to the best interests of our Indian population. The most effectual course that can be taken to avert such a calamity, is to adopt all practicable means to elevate the character and enlarge the acquirements of the civil and military officers to whom the executive government of our colonies is intrusted; and, without hesitation or reserve, to enjoin them to forward all measures which, upon mature deliberation, appear calculated to advance the welfare of the inhabitants of India in their individual, social, and political capacities. This is the province in which our countrymen are peculiarly calculated to excel. Other nations have rivalled us in the perseverance with which they have explored the depths of science, and the ardour with which they have pursued  
the

\* Hansard's Parliamentary Debates for 1813, vol. xxiv. p. 1068.

the career of military glory ; but we stand alone for the number, grandeur, and disinterestedness of the plans which we have devised for the moral and intellectual improvement of the species ; and it is to this that England is indebted for the ascendancy she now exercises over the minds of mankind. National distinction could not have been obtained by purer or loftier means, and it is to be hoped that neither we nor our descendants will forfeit our title to that pre-eminence which has been so honourably earned. Among these beneficent exertions, few can be more extensively useful than those which relate to the improvement of the administration of justice ; and none can contribute more to prolong the union now subsisting between the mother-country and the colonies, and to render it reciprocally beneficial and affectionate—until its dissolution. When the period of that dissolution may arrive no human wisdom can foresee ; but it is humbly hoped that he who has been pleased to cause the sun of our Indian greatness to arise, will not see meet to suffer it to set, until every corner of the eastern hemisphere has been purified and animated by its benignant influence.

THE END.

A  
BRIEF VINDICATION  
OF THE  
HONOURABLE  
EAST INDIA COMPANY'S  
GOVERNMENT OF BENGAL,  
&c. &c.



**BRIEF VINDICATION**  
**OF THE**  
**HONOURABLE**  
**EAST INDIA COMPANY'S**  
**GOVERNMENT OF BENGAL**

**FROM THE ATTACKS**

**OF**

**MESSRS. RICKARDS & CRAWFURD.**

**BY**

**ROSS DONNELLY MANGLES,**

**BENGAL CIVIL SERVICE.**

**LONDON :**  
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**M.DCCC.XXX.**



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## INTRODUCTORY REMARKS.

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THIS Pamphlet is more particularly addressed to that large and influential portion of the public, who, having no personal knowledge of India, naturally imbibe their opinions with respect to the government and general condition of that country through the medium of the English Press. Circumstances have conspired to render that source of information more than usually prolific of late years; and as we approach the period at which the discussions upon the renewal of the Charter must commence, still greater zeal and activity will, doubtless, be manifested by those who deprecate the continued existence of the present state of things. It is, therefore, most desirable that the statements which these writers have already put forth should be subjected to rigid examination before the process of assimilation shall have incorporated them with public opinion. Those who are most deeply affected by the charges of misrule, imbecility, extortion, and oppression, which have been so unsparingly heaped upon the government of British India, through the agency of the Servants of the Honourable Company, desire nothing more than that even-handed justice which gives an impartial hearing to both parties. In default of an abler champion, I appeal to our fellow countrymen on

their behalf. They scorn to shelter themselves under the flimsy plea that has been kindly suggested to them,—that they are the mere executive instruments of a system, for the rottenness of which they are nowise responsible. They are ready to meet the attack on far broader and more manly grounds,—to make common cause with the general merits of the government which they administer, and to join battle with their assailants in the lists of their own choosing. Any other mode of proceeding, indeed, would be virtual self condemnation. For if the government of British India be in reality as arbitrary, unjust, and rapacious, as it has been depicted, no man with any pretensions to conscience could save it. But then the whole question turns upon the fidelity of the picture which has been exhibited. I think I shall be able to shew that it is grossly exaggerated and distorted; that the outlines are in many instances incorrect, and the colouring almost uniformly overcharged; that, in short, the hideous effigy which has been so ostentatiously gibbeted for public execration bears no resemblance to the reality.

I refer more particularly to the writings of Messrs. Rickards and Crawford, the well known author of the “ View of the present state and future prospects of the free-trade and colonization of India;” and I speak of that Gentleman by name, though his publication be anonymous, not only because the notoriety of the case would render circumlocution as ridiculous as it is inconve-

nient, but also because I think that a Pamphleteer who deals his blows with no pre-eminent moderation, and assumes credit for his assertions on the score of personal experience,\* has no right whatever to claim respect for his incognito. But I gladly snatch at this opportunity to disclaim all intention of giving offence to either of the Gentlemen above named, in the course of my observations upon their respective Essays. I am disposed to meet them frankly in the fair field of literary discussion, and trust that I shall be able to go through with my task without venting a remark calculated to hurt them personally. At the same time, however, I must protest against being restricted to such weapons as my adversaries may think meet and proper to be used against them. Their attacks upon the rulers of British India have been but very little measured; and those accusations attach themselves, in proportion to his station, to every individual composing that body. I have already alluded to the ingenious attempt which has been made to separate the actual administrators from the abstract essence of the Government, thus leaving the latter, like the Lord Mayor in *Martinus Scriblerus*, without hands, head, feet, or body; and their readers will find little morsels of discriminative commendation scattered here and there through their pages. But the Servants

\* E. G. " We pronounce, from long experience, that for one trader who violates the prejudices or usages of the natives, there will be found twenty civil and military employés who will do so." Mr. Crawford's Pamphlet, 2d edit. p. 60.

of the Company would be weak indeed if they suffered themselves to be tickled into complacency at the expense of their honesty and common sense. They know that they must stand or fall in the estimation of their fellow-countrymen with the system which they have so long administered, and which, if radically depraved and foul, cannot but have attached its stains to their moral character. For there cannot be tyranny without operative tyrants; nor fiscal oppression without rapacious and unfeeling tax-gatherers. If they be the instruments of a cruel and extortionary Government, each and all of them are guilty of aiding and abetting its crimes; and it is certain that whatever *is* done, must be done through their agency. At their hands, therefore, Messrs. Rickards and Crawford can look for no favour; but they are entitled to fair hostility, and to such I shall scrupulously confine myself.

One word with regard to my own motives in thus putting myself in the front of the battle. Messrs. Rickards and Crawford have been long in the field, their Pamphlets are in very extensive circulation, and with the exception of Mr. Robertson's "Remarks," their opinions have scarcely been questioned. What is frequently, loudly, and uncontradictedly asserted, will, by the great mass of readers, be believed without examination or enquiry. My humble powers have been exerted for some years as a Servant of the Indian Government,—not, assuredly, as a mere irresponsible machine for raising Revenue or dispensing Jus-

tice,—and I feel that a share of the obloquy with which that Government has been attacked has fallen upon me. A great proportion of the whole must attach itself to the body with which I am connected by long and kindly associations, and I shall consider my labours richly repaid if I can relieve my fellow servants from any part of it. I am well aware that I have undertaken no easy task. A single sentence may contain a misrepresentation, but the work of refutation is necessarily far more tedious. There are few assertions that can be satisfactorily met by a bare denial, for there are few but contain some admixture of truth ; and it is in the separation of the genuine metal from the dross that the difficulty consists. He who runs may read the hardy and condensed assertion, but he must pause to listen to and comprehend the arguments requisite to confute it. This is not always readily submitted to : and I therefore trust that the brevity of this Paper will be attributed to my desire to avoid the opposite extreme, and not to any disinclination to meet the statements of Messrs. Rickards and Crawford in the most confident tone and the fullest detail.

Notwithstanding, however, the sarcasms that have been levelled at Mr. Robertson for a similar declaration,\* I must here profess my determination to confine myself to those branches of the subject under discussion with which I am practically acquainted. The whole field is one of vast extent ; and though it may well become such

authors as Mr. Rickards or Mr. Crawford to expatiate over its surface, wherever the Company has founded an Empire or a factory, I shall limit my observations to those passages of their respective pamphlets which refer more especially to the internal administration, the revenue, and the people of that part of British India, which is subject to the Presidency of Fort William. For if I had not always thought that the great cause of truth and knowledge is most efficiently promoted, when each individual lays before the public the digested results of his own experience, leaving the wider field to be occupied at some future period by a writer who may then be able to collect and collate the opinions of many; I should certainly have been led to that conclusion from observing the errors into which Mr. Rickards has frequently, and Mr. Crawford sometimes, fallen.\* How far the latter gentleman is correct

\* E. G. " In this place, however, I propose to confine myself to what may be found in public records and writers of authority; whence it appears, that in Bengal, Salt is only allowed to be manufactured within a limited spot, (to prevent smuggling,) in the Sunderbuns."

And, in a note, " A district included within the Delta of the Ganges."—Rickards, pp. 632, 3.

In page 641, Mr. Rickards gives a list of the several Agencies established in 1793, apparently quite unconscious that three out of the five, viz. Hidgellee, Tumlook, and Chittagong, are quite clear of the Delta of the Ganges. He does not even mention Cuttack, still more distant from that river, where there are now two agencies.

in his statements with regard to the commerce carried on by the Company, and the results of the free trade, I am not competent to determine. When I speak, therefore, of his blunders, I refer to the instances in which he has ventured in his descents too far from his shipping, and has slipped from the very excess of his anxiety to overthrow his adversary. That a writer, who has not hesitated to grapple with a subject of such vast extent, should limit the local knowledge of all the judicial officers in India,—some of whom, and it is no slight compliment, are his equals in talent and energy,—to something less than “five square miles of the area” under their several jurisdictions, (p. 52,) is not the least amusing instance on record, of the manner in which we estimate the powers of others, as compared with our own. This is venial: but there is a passage in which he represents the Judges and Magistrates of the Company’s administration,—men who are under the most solemn obligations to do justice to all claimants without fear or favour,—as “*labouring under the usual prejudice*”

“An equal sum (£10,000.) with that which is here dedicated to the Arts and Sciences among 50,000,000 of people, at the time of the enactment, and now among some 90,000,000, is, *in various cases*, given to an Agent of the salt or opium monopoly, without the least parade whatever, without any special Act of Parliament.”—Crawford, 2nd Edition, p. 78.

Not a single person employed as above, nor any civil servant whatsoever, receives the amount mentioned. I shall refer to Mr. Crawford’s more material errors hereafter.



*and delusion of their caste,"* and, therefore, "hostile" to the British planter.\* This is a fearful charge; and one that nothing but the clearest proof, affecting all the many parties concerned, can bear out. It will become Mr. Crawford to produce his evidence; it would have been as wise, perhaps, if he had not committed himself by such unqualified language, especially when it is considered that, owing to his long employment in other quarters, his personal knowledge of the state of things in the interior of Continental India must be very limited indeed. Meanwhile, we place, in opposition to his sweeping invective, the recorded sentiments of Lord Hastings, written after the final retirement of that lamented nobleman from the head of the supreme government. "I could not forgive myself, were I to let slip such an opportunity of rendering to the Honourable Company's Servants, that testimony which they have proudly merited from me. No body of men, taken generally, can be more high-minded, more conscientiously zealous, or more rigidly intolerant of any turpitude among their fellows."†

Nothing can be added to such a testimony, but the reply of a noble Roman, to a charge involving his reputation:—"Varro Sucrocensis ait: Emilius Scaurus negat: utro creditis Quirites?"

\* Page 31, 2.

† Lord Hastings's Summary, page 38.

## A

## BRIEF VINDICATION,

&amp;c. &amp;c.

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ALTHOUGH I have been obliged to class Mr. Crawford and Mr. Rickards together, as the determined assailants of the system under which British India has been hitherto governed, I do not by any means intend to imply that I conceive their minds to be of similar calibre, or their attacks equally formidable. I regard Mr. Crawford's pamphlet as a work of very superior talent, and, though the compliment may sound equivocal, his case is certainly got up with no little tact and skill. For Mr. Rickards' voluminous Essays, I cannot pretend to feel the same respect. Putting the spirit of cavil and misconstruction in which they are written out of the question, assumptions the most baseless, and conclusions the most illogical, absolutely over-run his pages : indeed, game of this description is so plentiful, that it is difficult to select the most glaring for exhibition. But I submit the following paragraph as a specimen of the combined

candour and accuracy with which Mr. Rickards reasons, premising, that it is intended to depict the present condition of the salt manufacturers; several preceding pages having been devoted to a soothing and useful recapitulation of the enormities practised in this department, from the first establishment of the Company's factory in Bengal to the year 1794.

“ In the accounts given of these Aurungs, or places of manufacture, we read of their being liable to drought, inundation, and famine; of the manufacture being carried on in uninhabited parts, destitute of fresh water, unhealthy from surrounding jungles, and in which numbers of the Molungees are annually carried off by disease, alligators, and tigers. From these circumstances, it may be also apprehended, that there are grounds for the accusation of this manufacture being still carried on by means of coerced labour. Courts of justice, it is said, have been established for the intended protection of the Molungees; but courts of justice merely tantalize wretches, who neither can, or else dare not, prefer a complaint, from the dread of still further oppression. We may, *therefore*, conclude, that the condition of the Molungees is not improved, from what has been very generally admitted, ever since the establishment of the monopoly, to be one of great misery.”  
P. 643, 4.

Now, it happens that I was nearly two years Commissioner in the Sunderbuns, the tract most

obnoxious to those "moving accidents," which Mr. Rickards has painted in such glowing colours, and that the duties of my office were of such a nature as to oblige me to spend a very considerable part of those months of the year, during which the salt manufacture is carried on, under my tent, on the skirts of the great Forest, or on board a boat, upon one or another of the rivers of the Delta. My immediate business was with the cultivators of the soil, before whose exertions, (thanks to free trade, as *demonstrated* by Mr. Rickards, in page 591, of Part III.) those trackless wastes are rapidly losing their character; indeed, I had no official connexion whatever with the Salt Department. But I necessarily saw a great many of the Salt works, and enjoyed every opportunity of ascertaining the condition of the manufacturers; and I can confidently assure all those in whose bosoms emotions of mingled pity and indignation have been excited by the accumulated horrors of Mr. Rickards' description, that he has most cruelly played upon their feelings. From what records he derived his information with regard to the perils that beset the unhappy Molungees from water and the want of water, from famine and disease, from the savage tenants alike of the forest and the flood, I cannot say, and he has not thought fit to inform us. I neither saw such things, nor heard any tales of them during my travels through a great part of the manufacturing district in 1824 and 25. It

is true, indeed, that a very small proportion of the whole body of the manufacturers do proceed annually, in gangs, to stations on the banks of the several rivers that intersect the Delta; that the forests which surround these Aurungs are uninhabited by mankind; and that, if they have no reservoirs of fresh water on the spot, they bring it, from time to time, from the nearest point that supplies it. But the woodcutters, and fishermen, and the gatherers of wax or shells, who frequent the same wild tracks in no inconsiderable numbers, and whom, even Mr. Rickards will believe to follow their callings without compulsion, are exposed to all the hardships, and to more than all the dangers, which the salt manufacturers undergo; for not being stationary, they cannot so well provide for their protection against wild beasts. Setting alligators out of the question, for I never heard of any man being destroyed by one in the Sunderbuns,—I do not deny that those salt manufacturers who carry on their operations as above described, are sometimes in jeopardy from tigers, and that lives are occasionally lost. Their Aurungs are certainly not healthy places, though I never lost a servant or follower during my stay in their vicinity; and the Molungees, being natives of the villages on the very skirts of the forest, find the climate much less noxious than strangers. But if these stations were perfect pest-houses, if they drank nothing but the most nauseous of brackish water, and if alligators and

tigers were ten thousand times more numerous and ravenous than they are, it would avail Mr. Rickards nothing towards justifying the conclusion, that the manufacture is "still carried on by coerced labour," unless he could prove that the same or wilder parts of the forests are not annually visited by hundreds of persons pursuing other avocations, or that such persons are no more free agents than the Molungees. The plain fact is, as Mr. Rickards would not have failed to discover, if he had not been blinded by his eagerness to arrive at a damnatory conclusion, that the unhealthy or otherwise hazardous nature of an employment operates in no perceptible degree, to deter men from entering upon it. There is no greater want of painters or plumbers in England, though the dangers attending upon these trades be well known, than of carpenters and bricklayers, and yet I do not suppose that the journeyman draws higher wages from the one trade than the other. In Bengal, the fishermen, woodcutters, and others, who frequent the Sunderbuns, are, I believe, not a whit better remunerated for their labours than the salt manufacturers; for, if the case were otherwise, nothing short of chains would restrain the latter from endeavouring to participate in the gains of their more fortunate brethren, as it requires no apprenticeship to cut wood, or gather wax and shells. But I should be able to grapple with the question more closely, if Mr. Rickards would specify, in

his next edition, the nature of the coercion that is employed to drive the unfortunate Molungees into the woods, and to keep them at work.

I must not, however, leave my reader under the impression that Salt, even in the Sunderbuns, is universally manufactured on the banks of silent rivers, in the heart of eternal forests. Not a little is made by men who, in all probability, never saw an alligator, nor heard the roar of a tiger, who conduct their business in the midst of extensive cultivation, and are as little exposed or subject to disease, as their brethren who plough and sow. A still larger quantity is raised by those whose works form a belt between the land under tillage and the forest, having, on one side, plentiful supplies of food and fresh water, and on the other abundance of fuel. It is to the active industry of these persons that the rapid advances of cultivation upon the great Sunder forest are in a great measure to be attributed: at least they have been eminently useful as pioneers. For they soon exhaust the wood in the vicinity of their works, and advancing further towards the jungle, are almost immediately followed by the agriculturist, who finds the site of their former operations ready cleared for the plough. These Molungees are, I think, invariably natives of the adjoining villages, and injurious as the climate certainly is to strangers at particular seasons of the year, it is not uncongenial to them. I have seen many old men in that part of the country, and I never heard

that the average of life was shorter there than in other districts of Bengal. Nor are the inhabitants, whether makers of salt, or tillers of the earth, more exposed to "drought, inundation, and famine," than millions who never even dreamed of an Aurung. I do not deny that there are occasional calamities from floods which affect those salt manufacturers who carry on their work on the islands of the great Ganges and Megna; but those are comparatively few in number, and, after all, are exposed to no greater hazards than their agricultural brethren. The Sunderbun rivers never overflow during the season of manufacture, at which time alone the Molungees occupy the "uninhabited parts" on their banks; and the open country, reclaimed from the waste, on which a vast majority of the Aurungs are situated, never to my knowledge suffers from inundation. Bengal has not, I am happy to say, experienced "famine" or "drought" for many years; nor will the salt manufacturers suffer from such visitations, if it shall please Providence at any time to inflict them, more than other classes of the community, equally dependant upon daily labour for their daily bread. As regards their perils from tigers, I lived long among the villages on the edge of the great Jungle, and during that period but two men were killed to my knowledge. There was no motive for concealment, for I was known to be a sportsman, and the natives are naturally delighted to engage the services of an ally against their formidable



enemy. In both the instances in question, I was entreated to rescue the bodies, and fortunately succeeded. One of the victims was a fisherman, the other a Molungee: perhaps Mr. Rickards will be able to deduce from the fact that fishermen ply their trade where hungry tigers abound, and where they are at least as much in danger of alligators as the salt manufacturers, whose business is on terra firma, the exact quantum of coercion that is used to compel them to cast their nets.

The clause regarding the Courts of Justice, which, "*it is said*, have been established for the *intended* protection of the Molungees," scarcely deserves an answer, since the charge which it involves is founded on the mere assumption that they are "wretches who neither can, or else dare not, prefer a complaint, from the dread of still greater oppression." I envy neither the language nor the spirit in which this accusation is brought; but Mr. Rickards may believe that the Molungees are so far better off than their agricultural brethren, that they are not liable to attachment upon civil process during the annual period of manufacture. That they and their families eat salt gratis, and that they carry on a very pretty little traffic with the villagers while the works are in operation, may also be considered as offsets, and are, doubtless, taken into account by every man who engages as a Molungee.

It appears, then, that those Molungees who are exposed to the greatest hardships,—those, I mean,

who leave their homes at a certain season of the year to proceed to the Aurungs in the Sunder Forest,—are in no respect more dangerously or more miserably situated than other poor and industrious people, natives of the same part of the country, who earn their bread in the same wilds ; and that the much larger body who labour in the midst or on the verge of cultivation, are in no worse predicament than those who till the ground beside them. I am sure that the fishermen, hunters, woodcutters, and wax gatherers,—no inconsiderable classes in any part of the Sunderbuns, are exposed to far more jeopardy from every quarter than the Molungees ; for the former follow their several trades in comparative solitude, and without fixed residences. From these circumstances, if Mr. Rickards be a logical reasoner, “ it may be also apprehended, that there are grounds for the accusation” of these crafts being “ carried on by means of coerced labour.” This analysis of his premises will enable the reader to form an estimate of the value of the conclusion at which he arrives, regarding the “ great misery” of the Molungees ; and after this dissection, I trust that the “ therefore” or “ consequently” with which he clinches his arguments, will not be considered quite equivalent to the Q. E. D. of the Mathematician. The real state of the case is, that the labour of the salt-manufacturer is not compulsory ; and that his condition is no more miserable than that of all persons engaged in occupations requiring little skill.

and no capital, in a country where population presses very closely upon the means of subsistence, and labour is super-abundant.

But it is amusing to observe how Mr. Rickards warms upon the subject, and how rapidly he steps from his conjectural apprehension "that there are grounds for the accusation of this manufacture being still carried on by means of coerced labour," to an unqualified assertion that such is the fact. The sentence quoted above is to be found in page 644, and at page 647 we read as follows. "A monopoly of a prime necessary of life to the poor, is established in a pestilential climate, *carried on by forced labour,*" &c. This, it must be supposed, is one of the "Facts submitted to illustrate the character and condition of the native Inhabitants," referred to in the Title-page.

That my readers may not suppose that I have invidiously selected for censure a single instance of error, I subjoin a paragraph relating to a very different subject. It refers to the alledged extension of cultivation throughout Bengal since the date of the permanent Settlement; a state of things, however, which Mr. Rickards cannot "in any respect" ascribe to that measure, "the operation of which hitherto has been one continued series of almost unmixed evil." He proceeds, "But in the accounts given of encreased cultivation we may reasonably conclude that there is some exaggeration and some mistake, even on the part of resident observers. In the first place, some of

the collectors represent the cultivation of their districts to be encreased one third in the course of a few years. Now, for the sake of illustration, let us suppose this to be generally the case throughout Bengal, and the consequence, as represented, of the introduction of the permanent Settlement; and not, as I conceive, of encreased effective demand from the opening of the trade. What would be the result? It is not even pretended that the population has encreased in the same ratio, either in wealth or numbers. The great mass, indeed, the Ryots, are uniformly admitted to be in the same state of wretchedness as ever; and effective demands for produce being *consequently* stationary, or nearly so, the quantity of produce now represented by three, would be of no more, or little more, exchangeable value than the quantity before represented by two. The only advantage, *therefore*, would be, that a starving Ryot, here and there, might chance to get a little more in quantity to his own share, if there should happen to be also enough to satisfy the rapacity of his Zemindar." Pages 592-3.

Now, in the first place, it is not fair to suppose, either for the "sake of illustration," or for any other purpose, that because "some of the collectors represent the cultivation of their districts to be encreased one third in the course of a few years," this is "generally the case throughout Bengal." Nobody ever dreamed of stating that it was so; nor certainly was it ever pretended that population

had encreased in that proportion, in numbers at least. In some districts, such as Burdwan, for example, there probably was not waste land enough to admit of such an extension, but yet the Collectors of other Districts may be correct in their statements, though I was not aware that any such had been advanced, and Mr. Rickards does not quote his authority. The question, however, is one of mere fact, and the testimony of a single eye-witness is worth ten times more than all the cumbrous artillery of "effective demand" that can be brought to bear upon the subject. If it were stated that one third more hops were grown in Kent, or one third more ribbons woven at Coventry, since the year 1790. very little ground would be gained by a sceptic who should insist on arguing upon the hypothesis that in every county and town throughout England the extension of growth or manufacture had been commensurate. It is very easy to reduce an opponent to an absurdity, if you can but force him to adopt any premises that you choose to thrust upon him. But Mr. Rickards argues unsoundly even upon his own assumptions. For he supposes extended cultivation, whilst effective demand for produce is stationary or nearly so. But land is never cultivated unless there be mouths to consume the produce. Men do not engage in the very laborious tasks of clearing forests or reclaiming wastes for amusement: it is the effective demand, or the stimulus of hunger, that sets the axe and plough in motion. Much

very poor land was brought into cultivation in England under the influence of the war prices, and this was thrown back again when *altered circumstances* rendered it ruinous to persist in the speculation. And this would be the case in Bengal, as regards the least productive land, whether new or old, if the price of grain were suddenly to fall. But to suppose that cultivation at present is one third more extensive than in 1790, whilst effective demand has remained stationary,—that is,—whilst there are no more mouths to consume the produce represented by three than there were at that period to subsist upon the quantity represented by two, (no hint being given that under such circumstances the former level would be restored,) is more than reasonable men can be expected to submit to, even “for the sake of illustration.” Demand has been defined as “the will combined with the power to purchase:” the natives of Bengal may or may not possess the will and power to purchase one third more grain than they consumed in 1790; but this much is certain, that the grain would not be raised, unless consumers were to be found. Did Mr. Rickards ever hear that in any country under the sun vast additional tracts of land were brought under tillage,—not suddenly, but by a gradual process,—although so far from any additional profits accruing to the agriculturist, he received no more remuneration for the expense of cultivating three acres, than he had formerly received as the price of the produce of two?

But how stand the facts? In many parts of Bengal cultivation has been vastly extended. In Nuddea, Moorshedabad, Rajeshahye, and other districts, immense tracts which, even within the memory of many European residents, were in the undisputed possession of the wild boar and the tiger, now present an unbroken sheet of cultivation. The forests of the Delta of the Ganges, though the jungle be obstinate, the soil impregnated with salt, and making no better return than a coarse sort of rice, are falling rapidly. Wherever tillage is extended, in places remote from water-carriage, it may be taken for granted that the local population has increased in proportion. When the additional produce is raised in the vicinity of navigable rivers, it may possibly owe its existence to the increased demands of the population of the towns. Yet, notwithstanding this larger supply, the demand has not only not remained stationary, but, to the best of my recollection, every species of agricultural produce has risen in price, in the ratio of three to two. Taking wealth and numbers together, the power of consumption has probably increased one third in many parts of Bengal since the date of the permanent Settlement. The Zemindars have acquired great wealth, as their subscriptions to the Public Loans testify; and the general features of the great mass,—the Ryots,—are very different from what they were at that period. There are now, of course, as there always will be in every

country not under-peopled, vast numbers who merely exist ; a state of things for which, even as it manifests itself in England, no remedy has been yet suggested, beyond that which every man must apply for himself,—personal frugality, and forbearance with regard to marriage. But many cultivators of the soil have certainly raised themselves from the dead level which the whole class formerly occupied ; many, to my knowledge, have embarked capital in agricultural speculations ; and many more follow the routine of their forefathers in improved and easy circumstances. In the mean time, the continued activity of those who possess the means, from local advantages, of taking in new land, demonstrates that demand is pressing closely on the supply. It remains for Mr. Rickards, who assumes, with his usual inconsequential “ therefore ” that the Ryots are “ starving,” to account for the obstinacy with which that class, to which such speculations are in a great measure confined, persist in raising additional crops, when they find so bad a market for the grain which they already grow.

But if there be any very considerable extension of cultivation, says Mr. Rickards, it is entirely to be ascribed to the “ vast increase of the external trade of Bengal since 1813 ; and consequently of the natural productions of the country to supply foreign demand : ” and upon this he laudeth his own foresight. That benefits have resulted to India from the opening of the trade, I readily



grant, though there are many drawbacks even to those; but it is quite another thing to suppose that that measure has developed all “ the symptoms of encreased wealth and extended cultivation in the Bengal provinces.” Not to go deeper into the question, does Mr. Rickards believe that the first axe was laid to the forests in 1814, and that no jungles had vanished up to that date? Alas! there is no veteran destroyer of hogs and tigers who would not assure him with a sigh, that thousands upon thousands of acres had been reclaimed before the pervading influence of free trade was felt at all. With respect to another quarter, a district of the Delta of the Ganges, let him hear the testimony of an eye-witness. “ In Backergunge, such had been the progress of cultivation, that the police-stations, which, toward the end of the century, stood at about three miles from the edge of the great Sunderbun Jungle,—which stretches to the sea-shore,—were, in 1810, separated from it by a clear space of thirteen miles in width.” \* I can report to a like effect, on the estates bounded by the western edge of the same forest. Though I saw them at a later period, I had means of ascertaining the dates of the several annexations which they had progressively acquired from the waste, and I can safely say that the encreased ratio of cultivation since 1814 was scarcely perceptible.

\* Mr. Robertson's Pamphlet, page 27.

But, says Mr. Rickards again,—for sometimes free trade has occasioned the increase of cultivation, and sometimes the reality or importance of that extension is altogether questioned—the “*supposed improvement in Bengal*” has “arisen as much from the discovery of Toufeer land, as from wastes since cultivated.”

Now, as this Toufeer land was all under tillage previously to the formation of the permanent Settlement, (or it would be part of the “wastes since cultivated,”) and was merely concealed at that period from the knowledge of the Officers who formed the assessment, it is difficult to conceive how its discovery at any subsequent time can affect the arguments of those who profess to shew the spots from which the beasts of the forest have been dispossessed, and where harvests now wave on the site of eternal jungles. If general arguments are worth very little when unsupported by particular facts, they are reduced to a minus quantity when they are at variance with them. But I shall meet Mr. Rickards again on the wide field of the permanent Settlement.

I have dwelt at some length on Mr. Rickards’ peculiarities of reasoning, and I now turn to notice a characteristic by which he is distinguished in common with Mr. Crawford, and a few other writers on subjects connected with British India. This quality, to avoid periphrasis, I may, perhaps, be allowed to designate as pessimism, it being an established dogma of the school of poli-

tico-philosophers to which these gentlemen belong, that "whatever is, is worst." I believe that the founders and chief doctors of the sect hold this tenet with regard to every institution, past or present, recorded in human annals; but the writers in question, having chosen a narrower field for the display of their peculiar doctrine, have concentrated their energies for the unqualified reprobation of the government of India by the Honourable Company, both in its general features and most minute details, from the days of Clive down to the present æra. According to their statements, the ingenuity of men, to whom they do not always deny talent, seems to have been exerted to the uttermost, to devise and execute plans of government, for the folly of which, children might blush; if, indeed, it be not rather concluded, that all the Servants of the Company have been actuated by a perverse love of misrule. Except within the narrow limits to which the jurisdiction of the King's Courts is confined, justice and fiscal moderation have found no place of rest for the soles of their feet. Beyond those happy precincts,—where lions and lambs, enjoying sweet repose together, are typified by rich Baboos and hungry attornies, attended by their jackalls,—all is anarchy and rapine, the unrelenting gripe of the Collector, and the closed Court of the Judge.

Now, it appears to me, that the peculiar formation of the mental retina, which presents to the

observer of a subject, vast in its extent and importance, one unvarying colour, should, at least, be suspected of disease. For it certainly is not, *prima facie*, probable that educated Englishmen should, for a long term of years, have uniformly misconducted the affairs entrusted to them; nor that the character of Rulers, acting under a variety of checks, and freed, by the nature of their situation, from many direct incentives to misgovernment, should be deserving of such unmingled reprobation. It is easier, in short, to think the artist a dauber, than to believe that the originals of a long series of portraits which he exhibits, could be, without exception, wooden or ill-favoured. Nature herself does not deal in glaring colours, and assuredly does not dress objects in one unvarying livery; and, therefore, were I quite a stranger to the subject on which I am treating, I should look upon the statements which Messrs. Rickards and Crawford have put forth with no little incredulity. For I should doubt, in the first place, whether their representation of the condition of India were not altogether a fancy-piece; or, if I were assured to the contrary, whether the caricature were not so gross as to render any reliance upon its verisimilitude utterly unsafe. I need not pursue the image any further, for every person must know how easy it is to distort beauty into deformity, to exaggerate faults, and to keep excellencies in the background. That the authors with whom I have to

deal have wilfully taken these erroneous views, I by no means wish to imply. Mr. Rickards's Pamphlets seem to be the work of a man perfectly persuaded of the accuracy of his information, and the correctness of his principles; but I think that, even when he argues upon sound premises, he has as much misrepresented the real state of things, as if he were to profess to write the life of Cicero, and content himself with informing us, that he was the vainest man, and the worst poet of his day. Mr. Crawford is a more experienced Soldado in the field of literature, and the caution of long habit has rendered the points of objection far less bold and remarkable in his attacks than in those of his comrade. But neither of them has found any admixture of good in the government of British India; and what is still more singular, neither has suggested any remedy for the evils which they denounce.

Mr. Crawford, indeed, has loudly insisted upon colonization as a salve for every wound, and a nostrum for every disease; but, when it is proposed to apply one specific measure to cure disorders in the body politic, assuming many shapes, and ascribed to a vast variety of remote causes, my mind involuntarily recurs to Dr. Sangrado and his patients. Mr. Rickards, on the other hand, has not yet favoured us with any exposition of his views on the subject of improvement, though it seems that, sooner or later, his plan for the "Administration of India" is to be laid before

the public. He informs us in his Preface to Part I., which was published early in 1828, that Part V. is to contain, " Suggestions for a Reform of the Administration of India, as regards the Present System, both at Home and Abroad ;" and, as the Second Chapter of Part III. is already in the press, we may look forward, if no accident intervene, to be put in possession of his notions on these important subjects, before the close of 1832. In the mean time, thanks to this admirable arrangement, all the virus contained in the following passages, and in one hundred others to the same purport, is sinking quietly into the public mind. " It is the East India Company, and their own Servants, armed as they are with power, and instigated by jealousy, who have, from the earliest times to the present hour, been involved in quarrel, disturbance, and war, with the natives of India ; and who, to guard their own privileges, ascribe to others the outrages and disorders of which they themselves have been most guilty."—Page 81. " In this way, twenty-one millions sterling are annually drawn from the sweat and labour of an impoverished people, by as grinding a system of taxation as ever was inflicted on the human race,—a system, alas ! in which we " look for judgment, but behold oppression, for righteousness, but behold a cry."—These invectives are calculated to do their work with all who will be satisfied with mere general declamation, backed by exparte evidence, though

Mr. Rickards' "Suggestions of Reform" should never see the light, or be found, on publication, to resemble Sir Boyle Roche's celebrated amendment, which made matters worse. But the order in which Mr. Rickards has arranged his attacks, may be regarded as a fair illustration of the manner in which the war has been carried on against the Government of British India. Errors and oversights have been ostentatiously blazoned, whilst every indication of a desire to improve the condition of the people,—and such are to be found in every page of public Indian correspondence,\*—has been passed over unnoticed. The evils which are unquestionably involved in our system of Government, and which must exist as a component part of all human institutions, have been exclusively dwelt upon, but the good which has been effected, and the difficulties against which the ruling power has unceasingly struggled, and which it has not unfrequently overcome, are carefully kept out of sight. There is much talk

\* "It is amusing to observe, how unceremoniously our Indian Reformers appropriate to their own use, the labours of the public functionaries. Half the descriptions given of the miseries prevailing under the Bengal Government, are taken verbatim from the Dispatches, yet it never seems to occur to these borrowers, that the Officers who were so eager to write, the Government who was ready to receive from its own Servants, such unflattering communications, could not, probably, be altogether wanting in efforts to correct the evils which they themselves recorded."—Mr. T. C. Robertson, page 28.

about the rottenness and insufficiency of the present system, and Sir Hyde East is quoted, to prove that "it cannot go on;" but little or nothing is said with regard to any consistent and intelligible plan for the correction of evils which all agree to deprecate; still less is any model laid before the public, by which they might form their opinion of the edifice that our political architects propose to erect in the room of the building which they are so eager to demolish. Till Mr. Rickards' Part V. appear,—till Mr. Crawford propose some expedient more definite than the mere application of his great panacea, I must be allowed to question the ability of our Reformers to carry such a gigantic scheme into execution, to the benefit of India at least; and, in common with all those who wish well to that country, I regret to perceive that the overweening confidence of those writers in their own capacities as Master-builders, and the contempt which they habitually manifest for all who do not belong to the same lodge of craftsmen, thoroughly indispose them to coalesce with a large body of those most deeply interested in the subject, and content themselves with such moderate and practical additions, improvements, and repairs, as experience has shewn to be necessary, or altered circumstances would seem to demand.

There is no fallacy in which pessimists more rejoice, nor of which they more frequently make use, when it is their object to depreciate and de-



grade, than that which measures actually existent men, with their works and institutions, against a standard of ideal or possible excellence, having no being or substance beyond the mind that forms it. And they do this, wilfully closing their understandings against the light of that experience which teaches, that the attainments even of individuals,—and, a fortiori, those of nations or bodies of men,—fall far short of that comparative perfection which it is but an amusement for the mind to body forth, whilst it toils after it in vain. For the Alps which rise on Alps before the view of the Scholar, are but feeble types of the obstructions which are piled up in the path of the legislator and practical reformer; and there is an obstinacy in the prejudices and vices of Society,—to say nothing of the want or imperfections of instruments,—such as often baffles the boldest and wisest in the more direct track towards improvement, and compels them to content themselves with obtaining, by a circuitous and painful road, but a small portion, perhaps, of the whole desired object. The wise and good bear this in mind, and therefore they estimate the services and merits of public men rather by what they have done, than by that which they have either not attempted to do, have failed in effecting, or regard as objects of prospective and gradual attainment; and they make allowance, moreover, for the implements and materials, with which, through the control of circumstances, the operations under review

have been carried on, neither expecting that bricks should be made without straw, nor that the work of a century should be completed in a twelvemonth. But the writers who have assumed the office of taskmasters and inspectors over the labourers employed by the Company, in the great field of Indian Government, suffer none of these considerations to affect them for a moment. Having chosen "Nil Admirari," for their motto, they seem to have looked upon the enormous extent of the British Empire in the East through an inverted telescope; whilst they treat with the most sovereign and undisguised contempt, those who reared, or have maintained the fabric. They take their stand, like a minute critic, under the dome of St. Peter's, observing, with intuitive quickness and precision, that a stone is loose here, a piece of discoloured marble there, or a pane of painted glass fallen out in a third place, but quite blind to the grandeur and magnificence of the whole. They shut their eyes to the rapid and uninterrupted success which has attended upon the acquisition and general administration of a mighty Empire, and which has drawn forth the admiration and applause of some of the greatest men of the age, and see nothing but error and oversights in the comparatively petty details of management. It is true that the Company,—that this vilified body of traders,—has acquired and consolidated an empire which the Cæsars might

have envied,\* but what is this trifling circumstance, that it should be permitted to counterbalance, in the scale of public opinion, their vile monopoly of opium? It is true that the exertions of the Soldiers and Servants employed by these Monopolists in the field and cabinet, have maintained these vast and remote dominions with a comparative handful of European troops; and that by a policy heretofore unheard of, but which has been as successful<sup>1</sup> in its execution as it was bold in its design, they have been able to form and attach to themselves an army drawn from the people beneath their way. It is true, that the Mahrattas, whose fingers were formerly in every man's dish,† from one extremity of the

\* "There is nothing, in the career of Rome itself, at all to be compared with that of the English Nation in India. Rome proceeded by slow and painful degrees, from insignificance to splendour: hundreds of years passed by, before she could boast of pre-eminence, even among the cities of Italy, and hundreds upon hundreds before she became mistress of the Western World. Little more than fifty years ago, the East India Company's territories were comprised within a few factories at different points on the Asiatic coast, and the Indian subjects of the King of England might possibly equal in numbers the population of Liverpool. Now, the East India Company are lords of a country, which measures an extent of surface, about ten times the surface of the British Isles, and which contains a population equal to not less than six times the population of England, Scotland, and Ireland."—Anonymous, *Blackwood's Magazine*.

† Lord Hastings's Summary, page 22.

Peninsula to the other, are now obliged to respect the possessions of their neighbours; that the Pindarries are crushed; that the husbandman of the north-western provinces can now reap his harvest without the assistance of Ameer Khan, and his thirty thousand horsemen; that the deserts of ages are reclaimed and cultivated; and, that from one extremity of our dominions to the other, no man is above or below the laws. But these, and a thousand other achievements of power and intelligence, shrink into insignificance, when we reflect, that, on the other hand, there is reason to believe, that at least two salt manufacturers are annually devoured by tigers;\* that sugar is made by a process which is called “barbarous child’s play,† and which turns it out very ill granulated, and deficient in saccharine matter; that our Courts of Civil Judicature do not dispose of suits so rapidly as could be desired;‡ that the permanent Settlement has not restored the beggared Zemindars of 1790 to their estates;§ and that the local Government, having money to remit to England, purchases indigo in the open market for that purpose, instead of buying bills from Mr. Crawford’s friends, the Agents. || Are

\* Mr. Rickards. Pages 644 and 647.

† Mr. Crawford. Page 31.

‡ Mr. Crawford. Pages 32 and 52.

§ Mr. Rickards. Page 589.

|| Mr. Crawford. Page 23. This charge is seriously brought forward by Mr. Crawford as an instance of “the

those who practise all the arts of addition and multiplication to swell their penny-farthing items into a grand total of mismanagement and incapacity, in earnest themselves, when they call upon the British Public to place them in the balance against the acquisition and maintenance of an enormous Empire? Do they suppose that they can build a mountain by any possible aggregation of mole-hills? Surely, if these and the like charges were ten times more numerous and more weighty, they ought to be quashed at once by the reflection, that but for the exertions of those whom Messrs. Crawford and Rickards are straining every nerve to drag as criminals to the bar of public opinion, the very site of the contested arena would not have been English ground.\*

usual interference of the Company" with the private trade, *the whole passage referring to the planters.* Those gentlemen must certainly groan most bitterly over the intrusion of a great purchaser into the market, as they cannot but feel that they should dispose of their indigo on much more favourable terms, if the Agents were left to settle the prices snugly among themselves, without a competitor, as they do the rates of interest. Mr. Crawford's zeal for his employers has rather outrun his discretion in this instance. Does he not think it better, on the whole, that the grower should get a high price, than that the go-between should gain a high profit?

\* I well know the sophism by which this argument is met by our Indian pessimists. It was not, they say, the Company, nor the Servants of the Company, who have done these great deeds, but Englishmen in the abstract. So no thanks to individuals, under any circumstances, but all praise and glory to this precious *αιδωλος*, the spirit or essence of the national

But such an appeal to the Capitol, however just, is below the dignity, and unworthy the rectitude of the party accused. I trust to prove, before I bring this little Essay to a conclusion, that the exertions of the Rulers of British India, in the cause of good Government, have been strenuous and unremitting; that these endeavours have, to a great extent, been crowned with success; and that, where the result has been different, the failure is to be ascribed to the want of means, the difficulties of situation, or the errors incident to all human calculations, not to incompetence on the part of the Agents, still less to any inherent vice in the system under which they act.

I proceed to illustrate my position, with regard to the spirit in which Messrs. Crawford and Rickards have severally travelled from Dan to Beersheba, in reviewing the administration of British India by the Honourable Company, by remarks on such portions of their respective pamphlets, as seem, from the superior boldness of their relieve, best suited to serve as examples. I select, for this purpose, Mr. Rickards' observations on the permanent Settlement in Bengal.

genius and valour. It is a very convenient abstraction, too, for it quite absolves us from all national gratitude. For, on this principle, we owe not a whit to the Duke of Wellington and his gallant army, since England won all the battles for herself.

Pages 356 to 386, and, in connexion therewith, “ his concluding remarks ” on the Zemindary Settlement,—Pages 567 to 598. Mr. Crawford has furnished subject matter, in Page 55 of his work, by his comments upon the Government loans, and the rate of interest for money in Bengal.

The history of the permanent Settlement in Bengal is known to every one who is in any degree conversant with Indian affairs. It was a measure forced upon the benevolent mind of Lord Cornwallis, by a strong sense of the miseries which the whole agricultural population, from the Zemindar down to the meanest cultivator, had endured under the plan which was acted upon up to the year 1789; and the demands both of humanity and sound policy appeared to that great Statesman so imperative and pressing, that he determined to provide for their satisfaction with the least possible delay. The evils to be remedied were great and crying, the voice of the sufferers and of the English public were equally loud in calling for their immediate redress, and leisure for the mature consideration of the steps to be taken could only be obtained at the expense of perpetuating the existing system. Lord Cornwallis was called upon to act, and but little opportunity was allowed for deliberation. One thing was certain: no measure that involved any present sacrifice of Revenue would be acceptable to the authorities at home, or consistent with the safe tenure of our Indian pos-

sessions;\* whilst, at the same time, the local Government was most anxious to alleviate as far as possible the pressure upon the agricultural community, and to provide for the preservation of the germ of future wealth and prosperity.

But the evident necessity of moving onward, in no respect tended to remove the difficulties which beset Lord Cornwallis's Government at the very commencement of their undertaking. The property of the soil was the great stumbling block, and all the information that could be collected upon that subject was extremely vague and contradictory. The Public Functionaries, from whom alone it could be derived, were prompt enough to communicate the results of their personal experience; but the official knowledge of each individual was necessarily limited to the district or districts in which he had served, forming a very minute segment of the great area which the scheme in contemplation embraced. Not only in every district, but in every sub-division of that district, rights, claims, and usages, varied extensively. In some quarters "Mahomedan exactions had actually extinguished the traces of private property in land, by the annihilation of those who were its rightful possessors;"† in others, a long succession of patriarchal Zemindars had attached

\* Mr. Rickards himself admits that the Government of Bengal, in 1789, could not dispense with the sum then levied upon the land. Page 580.

† Mr. Rickards. Page 283.



the cultivators to their rule and interests by affection and habit, and bore to European eyes the appearance of Feudal Proprietors. In a third place, under different circumstances, the Maliks or village Zemindars, were most prominent, and attracted the chief notice of the English Officers in charge of the Revenue. To other observers, again, the Ryots, whose tenures appeared coeval with the first cultivation of the soil, and who claimed, and, perhaps, exercised, when times were peculiarly favourable, a right of hereditary occupancy, seemed to possess the first title to consideration.\* Another party maintained with equal confidence that the Sovereign was the sole proprietor, and that all the grades of the agricultural community were alike dependant upon him; the Zemindars being held responsible for the immediate payment of the rent or revenue into the coffers of the state.

In fact, centuries of foreign domination, mis-

\* “ The Zemindars (literally landholders) were generally supposed to be the proprietors, partly from their Persian designation, and partly from their being found more generally in possession; but it was maintained, on the other hand, that these persons were mere Officers of Government, and that, according both to theory and usage, the Sovereign, as Lord Paramount, possessed a title to a certain portion of the produce of every acre of land: others contended that the Maliks, or village Zemindars, were the rightful proprietors; and others again, that no right of property could be traced beyond the Ryot (or husbandman), the heads of villages, or the village community who cultivated the land in common.” Tucker’s Review, pages 92, 3.

rule, and extortion, the iron sway of delegates from the Mogul Court, and the unsparing application of the screw of the Exchequer through the agency of Hindoo subordinates, who far excelled the ruder Mahomedans in matters of finance, had entirely destroyed all moral landmarks, or displaced and shifted them to such an extent as to render their continued existence the very cause of misapprehension and error. In Bengal Proper no traces of the village Zemindars would seem to have survived. Sir Philip Francis' Minute of the 22d January, 1776, draws a deplorable picture of the state of the country at the time when the sovereign power was ceded to the Company; and the manner in which the revenue was collected from that period to 1789, no wise tended to promote the re-establishment of ancient institutions. On the contrary, the Zemindars were in many instances displaced, and Officers of Government or Farmers of the Revenue appointed in their stead. The Ryots were ground down to the very earth, and yet the nominal Jumma was never realized.

From this chaos of confusion, doubt, and conjecture, Lord Cornwallis was compelled to collect the elements of order. He could not stand still; even tradition failed to record any pre-existent state of things to which it might be possible to revert; and wherever village Zemindars existed, the pretensions of the contending claimants for consideration appeared absolutely incompatible.

In this dilemma, a scheme presented itself which seemed to reconcile the claims of two, at least, of the parties at issue. The natural bias of an European mind was to recognize the Zemindar as the proprietor of the soil, but humanity dictated at the same time an assertion equally unequivocal of the rights of the resident cultivators.

This attempt “to reconcile things incompatible, by admitting a full right of property on the part of the Zemindars, while we endeavoured at the same time to limit their demands for rent, and to preserve the right of occupancy to their Ryots and undertenants,”\* is the only error of importance of which Lord Cornwallis was guilty in the formation of the permanent Settlement. And yet, looking back upon that measure, after the lapse of forty years, with all the advantages of experimental observation, it is extremely difficult to say what better plan could have been adopted. Long prescription,—so long as to be quite equivalent for all practical purposes to original right,—had established the claim of the Zemindars to be considered the proprietors of the soil; or if it be supposed that during the convulsions which society had experienced, the class of persons to whom that designation properly belonged had entirely disappeared, none but the Zemindars were left to fill their place.† Few,

\* Tucker’s Review, page 94.

† Mr. Rickards has an extremely naive paragraph upon this subject. “Finally the settlement was made with Ze-

probably, will be found to advocate a settlement with the actual cultivators of the soil, which could only have tended to render the revenue insecure, to reduce the whole agricultural population to one dead level, and to entail upon the country in perpetuity an army of native tax-gatherers. Many, it may be said most, of the Zemindars, were confessedly ill-qualified to become landlords, or, indeed, to fill any situations in which wealth was to be obtained at the trifling sacrifice of justice and humanity. But where was Lord Cornwallis to find better men; where,—setting their claims aside, and without reference to the hold which some of the Zemindars undoubtedly possessed upon the affections or habits of the Peasantry,—where could he find other and less vitiated materials for the construction of a class of landholders?

mindars, whose ignorance, rapacity, collusions, and abuses of all kinds, are so uniformly attested in the Public Records, that nothing, one would think, could be wanting to prove their entire unfitness for the trust. *The only plea that can be discovered for the measure is the conviction of both Mr. Shore and Lord Cornwallis that the Zemindars were the real proprietors or lords of the soil, or that can be supposed to have influenced two such men in conferring or confirming powers on persons in other respects so unworthy of the benefit.*" Pages 385, 6. When rulers are avowedly searching for rights on which to base their arrangements, a "conviction" that they have discovered the parties in whom these rights reside, is a pretty strong "plea,"—if the individuals in question be upright and conscientious,—for the adoption of such measures as may give them a practical hold upon the "benefit" to which they seem justly entitled.

It is a mighty simple process to call the Zemindars hard names, and to rail at them as “ proverbial throughout India as oppressors and extortioners ;” but Lord Cornwallis knew well that their faults and vices were those which centuries of slavery, co-operating, as regards the great majority, with the demoralizing effects of a most wretched and impure superstition, had branded so deeply into the national character, as to leave no class of persons, and scarcely any individuals, exempt from their influence. Mr. Rickards allows that “ the intention of the Zemindary Settlement was undoubtedly good, and the principle of establishing a respectable and wealthy class of landholders throughout the country was worthy of Lord Cornwallis’s humanity ;”<sup>\*</sup> but he no where points out, nor even hints from what quarter or rank in society a body of men were to be selected for that purpose, untarnished by the “ ignorance, rapacity, collusions, oppressions, and abuses of all kinds,”<sup>†</sup> for which the Zemindars were so eminently distinguished. But this is the manner in which Mr. Rickards invariably argues. While he vilifies every thing that has been done, he never condescends to point out an alternative, still less does he stoop from the even tenor of his lofty flight to enquire what materials and opportunities the builder

<sup>\*</sup> Page 580.

<sup>†</sup> Page 385. It must be remembered that there were no traces of Maliks, or village Zemindars, in Bengal Proper, and they were found but partially, I believe, in Behar.

whose labours he criticises possessed for the construction of a more faultless fabric. He would have discovered, with the penetration of a shipwright, that Robinson Crusoe's boat was ugly in the extreme, and almost as barbarous as our Indian system of taxation ; but it never would have occurred to him to make any allowances for the unsuitable nature of the timber, the deficiency of tools, or the circumstances under which the work was carried on. To the eyes of Smelfungus the Pantheon was " nothing but a huge cockpit," and Mr. Rickards sees nothing in our Indian administration but mistakes and mismanagement.

With regard to the Ryots, there can be no doubt of Lord Cornwallis's intention to follow up the declaration of their rights, by adequate steps to secure them from any infringement. " The power of making laws for the protection and welfare of the tenants in the several classes of dependent Talookdars, Ryots, and other cultivators of the soil, was expressly reserved to government, by an article of a Proclamation enacted into Regulation I. of 1793,"\* and although such measures would have sadly broken in upon the theory of the permanent Settlement, as based upon the recognition of the Zemindars in the character of independent landholders, and would have greatly retarded, if not altogether prevented, the growth of a native aristocracy, it is to be regretted that they were

\* Mr. H. Colebrooke's *Minute of 1st May, 1812.*

never carried into execution. I feel it extremely difficult to explain the causes of this omission without going into long detail, for the subject is one that cannot be made intelligible in a few words ; and Mr. Rickards' general invectives are like the unchanging blanket of a village theatre, — the same whatever the scene, whosoever the actor.

The same circumstances which had enveloped the right of property in land in darkness, as regards Bengal Proper, almost impenetrable, had affected, in a similar manner, all subordinate tenures, but more particularly, perhaps, those of the Ryots, or poorer resident cultivators. The middlemen, or farmers, were men of some little capital, and could neither be racked with absolute impunity, nor be retained as profitable tenants under bad treatment. The Ryots, on the other hand, had, in most instances, known for ages no law but that of the strong hand, nor the exactions of their superiors any limits, but those imposed by inability to extort more. Pergunnate Rates, indeed, were sometimes talked of and referred to, and it was upon these that Lords Cornwallis and Teignmouth relied as the basis of their arrangements for the security of the cultivators ; but it seems that it was the invariable custom to add a number of cesses to the rent fixed by that standard, (even when it was resorted to), so indefinite in their nature, and so arbitrary in their amount, as to render a rule liable to so many and

such great exceptions altogether valueless. How the matter stood at the period of the permanent Settlement, will appear from the following extract from Mr. Shore's Minute of the 18th of June, 1789: it is stated to be an extract from a Ryot's account, taken about the year 1781.

	Rupees. Ans. Gs. Cs.			
<b>" Rent of seven Beegah, twelve Cottahs, seven Chuttacks of land of various pro- duce, calculated at a certain rate per Beegah, according to its produce ; (extracted from an account of demands and payments, called Hissab Khurcha.)</b>	<b>14</b>	<b>0</b>	<b>8</b>	<b>0</b>
<i>Abwab, or Cesses.</i>				
	Rs. As. Gs. Cs.			
<b>Chout at 3-16th per Rupee</b>	<b>2</b>	<b>10</b>	<b>0</b>	<b>0</b>
<b>Poolbundy, a half month's demand, or 24th of the</b>				
<b>Jumma . . . . .</b>	<b>0</b>	<b>9</b>	<b>7</b>	<b>2</b>
<b>Nuzzerana 1 Month or 12th</b>	<b>1</b>	<b>2</b>	<b>15</b>	<b>0</b>
<b>Maungun ditto ditto</b>	<b>1</b>	<b>2</b>	<b>15</b>	<b>0</b>
<b>Foujdary 3-4th of 1 Month, or 1-16th . . . . .</b>	<b>0</b>	<b>14</b>	<b>15</b>	<b>0</b>
<b>Company's Nuzzerana, 1 Month &amp; a Quarter..</b>	<b>1</b>	<b>7</b>		
<b>Batta, one anna per Rupee</b>	<b>0</b>	<b>14</b>		
<b>Total Cesses</b>	<b>8</b>	<b>12</b>	<b>2</b>	<b>2</b>
<b>Total . . . . .</b>	<b>22</b>	<b>12</b>	<b>10</b>	<b>2</b>
<b>Khelat at one Anna and a half per each Rupee of the above sum . . . . .</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>2</b>
<b>Total . . . . .</b>	<b>24</b>	<b>14</b>	<b>12</b>	<b>0</b>

*“ The first sum of Rupees 14. 0. 8. 0. is called the original rate of the land ; but even this may*



*include cesses consolidated into it. Some of the Abwab, or cesses, since added, are subsequent to the period of the Dewanny. If the accounts of the same land were now examined, some additional impositions might appear. The Zemindars introduce them by degrees, at intervals of two, three, four, or five years; and rarely attempt them for two or three years successively."*

From the above statement it appears, that eight years before the formation of the permanent Settlement, the arbitrary and indefinite cesses were to the rent nearly as nine to fourteen; and Mr. Shore conjectures that even the rent, stated at Rupees, 14. 0. 8. 0. had some cesses consolidated with it. From other passages in his Minute, it would seem that Mr. Shore thought it feasible to devise some plan for the general protection of the cultivators; but still it is evident that such a measure could not have been carried into execution without the assistance of the most intelligent executive officers, and the minute and unremitting labour of years. How much these investigations must have gone into detail, and of how little value the particular items of information would have been, as affording any general data, the following extracts will manifest. "It would be impossible, I conceive, to fix specific rates for any one species of produce, in any district generally; the quality of the soil, and the situation of the land, as enjoying the advantages of markets and water carriage, must determine it.

The remark applies to every species of produce.”  
 “ In those places where the accounts are kept with the most regularity, and the established rates adhered to, the annual adjustment of the rent to be paid by each Ryot, is not made without difficulty.” “ Such are the general usages and practice, as far as I have been able to ascertain ; but there are local customs, which can only be known by an examination on the spot.”

So much with regard to the practicability of laying down any fixed and definite rules to limit, on the one hand, the exactions of the Zemindars, and to protect them, on the other, from being defrauded of their just dues, as the parties responsible for the payment of the public Revenue. How correctly Mr. Rickards estimates these difficulties, and how philosophically he exposes evils, without even an allusion to any remedial measures, may be judged from the following extracts. “ But the Nerick (rate) differing in every Pergunnah, and sometimes in the same Pergunnah, and even adjoining villages, Courts of Justice had no fixed rules or standard whereby to decide disputed points between Zemindars and Ryots. The proposed Pergunnah rates never were, *and never could be ascertained*; whence the judgments of the Courts were often founded on the most opposite principles.”—Pages 377-8. “ Courts of Justice even could afford no remedy for the evils thus subsisting. In the cases which did come before them, there was neither rule, nor precedent,

nor usage, to guide their decisions ; for the rights of Ryots had never been defined, and judgments, consequently, were often given on principles diametrically opposite.”—Page 583. In the name of common sense and consistency, how were the rights of Ryots to be defined, if Pergunnah rates “ *never could be ascertained?*” and as there must have been Courts of Justice, and disputes between landlords and tenants, though the permanent Settlement had never been dreamed of, and the land revenue altogether abandoned, how is the uncertainty which would have existed under whatever circumstances, and which is stated to be irremediable, to be laid, with any equity, to the charge of that measure ?

If, as Mr. Shore admits, even in those places where the accounts were kept with the most perfect regularity, and the established rates adhered to, the annual adjustment of the rent to be paid by each Ryot was not made without difficulty,—difficulty, it must be observed, between the parties actually contracting, and intimately acquainted with their several interests,—it might be supposed that questions of a more abstract nature,—as, for instance, the right of occupancy,—would be involved in still greater uncertainty. Yet, Mr. Shore speaks of that right as “ a prescriptive law,” and adds, “ I understood, also, that this right of occupancy is admitted to extend even to the heirs of those who enjoy it.” The turn of the expression implies doubt ; but that feeling would seem

to have been superseded by confidence, for it is unquestionable, that the whole tenor of the Regulations which bear upon the permanent Settlement, is in favour of an hereditary right of occupation on the part of Khoodkhash Ryots, or resident cultivators. How extremely difficult it is, however, to lay down, in practice, any fixed or general principles with regard to this right, or other immunities claimed on behalf of the peasantry, the following extract from a Report submitted to Government by Mr. Hugh Christian, at so late a period as November, 1827, will abundantly prove. With all those whose attention has been directed to revenue affairs under the Presidency of Bengal, Mr. Christian's opinions will carry great weight. His observations refer to the state of things in the Western Provinces, where Mr. Christian was most extensively employed; but as it is admitted on all hands that the principal features of the agricultural community have undergone less change in that quarter, even at the present day, than had taken place at Bengal at the date of the permanent Settlement, and as the reciprocal relations of Zemindars and Ryots are the same in both instances, they may safely, I think, be received in evidence.\* “ The privi-

\* Mr. Christian had successively charge of the Collectorships of Ferruckabad, Allahabad, Moradabad, Bareilly, Goruckpore, Agra, and Cawnpore; and during the period of his service, he formed several very extensive Settlements. The Report from which the above paragraphs are selected, was laid before

leges of the Ryots, have, for some time, excited considerable attention ; but I have not been able to learn whether any progress has been made in their precise definition. Under former governments, collection of revenue being a primary object, subordinate tenures, or the rights of persons, were little thought of; and the cultivators appear to have been left entirely at the disposal of the large landed proprietors, by whom they may have been well treated from motives of self-interest, but on no other ground." \* \* \* \* \*

“ I recollect making some enquiries respecting the rights of the Ryots in Shekoabad, situated in Zillah Etawah, *but I was unable to arrive at any satisfactory conclusion, from the want of precise information.* In some estates, the cultivators have been frequently driven off their lands by the Zemindars; in others, they have been uniformly well treated, enjoying undisturbed occupancy. It appeared to be the general opinion, that all classes of the village community were more or less dependant on the managing owner, whose immediate relations had some deference shown to them, in regard to the terms on which they cultivated, the rate of rent being comparatively low ; but both the resident and non-resident Ryots were, in fact, tenants at will, neither the one nor the other having the power of transferring the right of property, without the sanction of the

Government, as the results of his experience, on his final retirement from the Service.

proprietor." \* \* \* \* \* " It was sufficiently obvious that the cultivators were neither accustomed nor prepared to act independently of the Zemindars, from an attempt made in the above-named Pergunnah to sub-divide a village, and take engagements from each person for his field, on a fair appraisement of its value. The greatest difficulty was experienced ; and, on the business being well advanced, several of the contracting parties were suddenly induced to abscond ; when, of course, it became necessary to revert to the former system of management, to secure the public revenue, and to preserve the peace of the village."

Such is the uncertainty under which a Revenue Officer, whose zeal and intelligence are equally unquestionable, confesses that he labours, at the close of a service of twenty-two years, with regard to the rights and privileges of the cultivators of the soil. Mr. Christian possessed every advantage for acquiring possession of the necessary facts which an intimate acquaintance with the people and their language could bestow ; he passed months at a time encamped on the very site of his enquiries ; and yet he found it impossible to arrive at " any satisfactory conclusion," when the tale that he heard in one village was diametrically opposed to the traditions or customs of the next estate, and he found both of these perhaps as widely at variance with the practice of a third place.

This being the case at the present day, let us enquire how Lord Cornwallis was situated, and what means he had at command to meet and overcome the great difficulties which I have specified in a very cursory manner. It is obvious that no mere general enactment, however detailed or precise, could have protected the Ryots from extortion or dispossession, and provided, at the same time, for their regular liquidation of the just dues of the Zemindars. Every man, indeed, who has been personally engaged in enquiries of the nature in question, knows well, that nothing short of a Mofussil settlement, field by field, and the formal record of a Ryotwar-Jummabundy will suffice to secure each party from the aggressions of the other; for the Ryots are just as prompt to withhold their rents, when opportunity offers, as the Zemindars to enhance their demands, when the turn is in their favour, notwithstanding that the latter are so notorious throughout India as plunderers and oppressors.\* But how many spare hands were at Lord Cornwallis's bidding to carry on these operations, over many thousand square miles,—operations which would have been far from complete without the accompaniment of a scientific Survey, if, indeed, the necessary records could have been otherwise rendered intelligible? It must be remembered that his Lordship could not command crime and litigation to stand still

\* See Mr. Rickards.

whilst this great work was in progress ; that the gang-robber would not fold his hands, and sit down under his fig-tree, to permit the Magistrate to step into the fields to measure and assess ; and that the few military men who were to be found in India at that day properly qualified for such labours, could not be summoned from their more immediate professional avocations to conduct a Revenue Survey. \*The number of Civil Functionaries was small in comparison with their present strength, and that even “ has been regarded by every one who has considered the subject as far short of what the service demands.”\* Moreover, it cannot be denied that the civil service, before Lord Cornwallis’s time, was neither so effective nor so pure as it has been since.† I have already shewn why his Lordship was most unwilling to delay the execution of his great financial measure, pending enquiries of which it was impossible to see the termination, and which would probably have still been in their infancy ; and from my latter remarks may be drawn a very imperfect account of the obstacles which have since conspired to baffle the benevolent intentions which that illustrious nobleman and his colleague, the present Lord Teignmouth, equally entertained,

\* Lord Hastings’ Summary, page 33. A great number of young men have since joined the service.

† “ Periodical settlements were the never failing source of periodical corruption and abuse.” Tucker’s Review, Note to page 107.



and which they hoped to realize, either personally or through the agency of their successors in the Government.\* My readers will, I trust, observe, that most of the arguments which I have brought forward to establish my position respecting the rights of the cultivators, apply with equal force

\* “ I had at one time under consideration to propose a plan for the preparation of such records” (regarding rates of rent, usages, &c.) “ under the superintendence of the Revenue Officers, assisted by the Canoongo Office, to be re-established for that and other purposes, and in communication and concert with the Zemindars and principal Ryots of each Pergunnah: and I had made considerable progress towards maturing the plan of this grand undertaking. But after much consultation with the late acting President of the Board of Revenue (Mr. Crisp,) and with other experienced and well-informed Officers of the Revenue Department, *I have been diverted from this project by the apprehension that the intelligence and activity requisite for the due superintendence of its execution, within each Zillah, are not to be universally or generally expected; and that, if it were ill performed, it might, not improbably, add to the subsisting evils, instead of remedying them.*” Mr. Colebrooke’s Minute, 1st May, 1812. This is the language of a man of great talent and experience, and second to no one either in his anxiety to remove existing evils, or in his knowledge how the end in view was to be attained. But that quality of his mind which “ the Grecians call Philanthopia” (see Mr. Rickard’s motto) did not blind him to the inefficiency of the means and instruments at his command for a work of vast extent, nor lead him to indulge in long-winded Jeremiads without suggesting any means of improvement. Observe, that twenty-two years after the formation of the permanent Settlement, Mr. Colebrooke speaks of his plan as a “ grand undertaking.”

to the difficulties which the framers of the permanent Settlement experienced with regard to the sub-division of estates, and the exact apportionment of the public revenue.

I proceed to submit a few specimens of the tone and manner in which Mr. Rickards speaks of the permanent Settlement, premising that this more than Egyptian taskmaster never makes the most distant allusion to the difficulties that I have endeavoured to depict, as presenting any impediment to its formation on a more perfect model, and with more complete security for the maintenance of the rights of all parties concerned. Nor does he once attempt to shew by what process or by what agency the objects which all must concur in thinking so desirable, were to be arrived at: but for this illumination we must patiently wait till the publication of Part V.

“The permanent Settlement was also introduced under an avowal of imperfect knowledge as to the real value of the lands, or what ought to be the amount of the assessment, on the principle of partition directed to be adopted.\* Considering, however, that the settlement was to be perpetual and irrevocable; that the assessment was to be the utmost government could ever in future derive

\* One would think that this “avowal” might disarm Mr. Rickards, and induce him to believe, that Lord Cornwallis’s government looked upon a permanent Settlement, *even with all these drawbacks*, as the best measure they could devise.

from the lands;" that the pledge to this effect must be for ever held sacred and inviolable ; it is quite obvious that these preliminary points ought to have been ascertained in the first instance with the greatest accuracy.\* But in spite of all the enquiries instituted, the actual resources of the country were still as little known, as the rights and usages of the different orders of people interested in the result."† Page 382.

" First, the system was adopted without anything like correct knowledge of the resources of the country. Secondly, it was adopted in equal ignorance of the rights of the different classes of proprietors, or occupants of the land." Page 571.

" Of the enumerated objections and inconveniences, I shall briefly observe, that these could not have occurred, had the survey and assessment accounts of Villages and Districts been, what they professed to be, accurate registers of local and personal rights, titles, boundaries, cultivation, and

\* " Quite obvious" indeed ; but how, when, by whom ?

† Much *was* known, as Mr. Shore's Minutes, and a vast number of other papers testify. *How much more was required*, the laborious surveys, and minute enquiries now going on in the Western Provinces, will abundantly prove. There, we are proceeding village by village, field by field, registering every individual's rights, and forming our calculations on the ascertained produce. But the whole will be the work of years, almost centuries, with all our present means and appliances, and the area of those Districts is not nearly so large as that to which the permanent Settlement extended.

produce of lands.\* We have here, on the contrary, the plainest proof of their worthlessness. Had these registers been accurate, as they always pretended to be, we should not have to lament our ignorance of the real value of estates; the consequent monstrous inequality of assessment; or the task (in which, however, we ultimately failed,) of adjusting disputed claims and titles, of which nothing was known previous to the partition, and declaration of permanency." Page 572.

It is scarcely credible, that the author of the foregoing paragraphs,—the extract from page 571, more especially,—should also have penned the following sentence. The Italics are his own.

" Mr. Shore, now Lord Teignmouth, in a very able Minute, annexed to the Fifth Report, considers the Tumar Jumma to be founded on a "knowledge," (by which I presume he means an "ascertainment") "of the real existing resources." I have given my reasons for entertaining a different belief,—for believing, in fact, any such *ascertainment*,—with the least accuracy or justice, in such extents of country as Hindostan and the Deccan,—to be utterly impossible." P. 325, 6.

It is obvious, that Lord Cornwallis's administration is censured, with great reason and can-

\* Very true: but what were these Surveys and Assessment Accounts, and who pretended that they were accurate? Did Mr. Rickards ever see a Bengallee map? The fact is, that the information acted upon was the best procurable: there was none other.

dour, for forming the permanent Settlement, before they had arrived at a "correct knowledge" of those resources which it was "impossible" to ascertain "with the least accuracy or justice."

The fallacy, however, which has been an *ignis fatuus* to Mr. Rickards throughout his remarks upon the financial experiment of 1790, is this: he has accumulated all the evils to which all the classes of the agricultural population in India are subject,—from the extent of the demands of the State, as well as from the nature of their reciprocal conduct,—and laid them "*en masse*" on the shoulders of the permanent Settlement. For many,—for most of those evils, Lord Cornwallis's measure is no more responsible, than the physician for the malady which he is unable to cure. That so much misery should have been perpetuated *in despite* of the most benevolent intentions, and the most honest exertions, is deeply to be regretted; but, looking back at the condition of every class connected with the soil,—from the highest Zemindar to the meanest cultivator,—at any date previously to 1789, it is grossly unjust to regard the permanent Settlement as the instrumental cause of evils which were in intense operation ages before that plan was first suggested, and which certainly would not have been less extensive and deplorable at the present day, if it had never been carried into execution. With the machinery available, no more could have been done for the protection of the peasantry under

any other system ; and, however paradoxical it may sound, I believe that no plan could have been devised, which would have prevented a large proportion of those landholders, who are represented as the victims of the permanent Settlement, from ruining themselves. There is no lack of documents to prove what the state of the country was at the time when the Company acquired possession of the Duwanny, and matters seem to have changed in no respect for the better, between that date and 1789.\* I do not speak of these matters lightly, for I sincerely lament that the elements of suffering were too deeply seated in the general disorganization of society, to be affected by any mere ordinance of the ruling power ; but, surely, if Lord Cornwallis's recognition of the immunities of the cultivators, produced no good effect, because it could not be followed up by any practical measures, it, at least, placed the Ryot in no worse predicament than that in which he previously stood. Mr. Christian's observations above quoted, refer to a part of the

\* See Mr. Francis's Minute of the 22nd January, 1776, *passim* : e. g. " Whether it be owing to excessive impositions, to any unequal distribution, or to an injudicious mode of collection, or to the united operation of these causes, it is notorious that the country is impoverished, and, in a great degree, depopulated." " The ancient establishments were overthrown, *great numbers of the Zemindars were dispossessed and reduced to beggary, and the greater part of the wealthy families, and people of reputation and ability in business, cut off, or brought to ruin.*"

country not permanently settled, and even to a period before our possession, yet he speaks of the Ryots being left “entirely at the disposal of the large land proprietors,” of their being “frequently driven off their lands by the Zemindars,” and states, that “both the resident and non-resident Ryots were, in fact, tenants at will.” Mr. Becher writes, in 1769, that “there is no fixed hustabood, (valuation of the land from actual survey,) by which they (the Aumils) are to collect, nor any likelihood of complaint, till the poor Ryot is really drove to necessity, by having more demanded of him than he can possibly pay.” I may add, that all those who have seen any thing of the general condition of the peasantry in Native States, know, that it is in no respect to be envied by the most depressed Ryot, under the permanent Settlement.\* Do not let me be misunderstood: I earnestly wish that it had been found possible to provide for the security and well-doing of every cultivator of a Beegah of land; but, as things stand elsewhere, as things stood previously, it is most unfair, and very unworthy of “an acute and intelligent observer,” “to describe the system as transferring the miserable Ryots, like so many herds of cattle, into the hands and bondage of a class of persons, pro-

\* “Exaction of revenue, is now, I presume, and perhaps always was, the most prevailing crime throughout the country. *It is, probably, an evil necessarily attending the civil state of the Ryots.*”—Sir H. Strachey, 5th Report.

verbial throughout India, as oppressors and extortioners," viz. the Zemindars.\* This is, doubtless, a caricature; but, if the Ryots be "transferred like herds of cattle" now, they were equally liable to be goaded and driven before "the system" was devised; and can be just as efficiently protected in the lower provinces at the present day, as in those districts beyond the pale of Lord Cornwallis's arrangement. I speak from actual acquaintance with cases in which the peasantry have been effectually rescued from oppression, but this object can be only ensured by the personal exertions of an English functionary, upon the estate which the Ryots cultivate, and by minutely ascertaining and recording the rights of every individual. How slow these operations must be, and how vast the field,—for there are millions of cultivators,—must be self-evident.

Mr. Rickards regards "an originally heavy assessment" as the cause which made over the Ryots "to the vexations and exactions of hard-hearted taskmasters, against which laws and re-

\* This passage is quoted, by Mr. Rickards, from "Observations on the Law and Constitution of India." It is stated to be written upon personal observation of the condition of Ryots in Bengal. The extract subjoined will prove how accurately the author has studied national character, and with what knowledge of Indian History he points his antitheses. "Instead of *the manly spirit of former times*, which a very small portion of independence will nourish, the native of Bengal knows now, (1825,) that even the privilege of residing in his native village he owes to his subjection alone."



gulations were altogether impotent." But then it behoves him to shew that the peasantry are better off in Mymunsing and other Districts, which are greatly under-assessed, than in those parts of the country where the profits of the Zemindars are small. There are estates on the skirts of the Sunderbun forests which scarcely existed, except in the shape of jungle, in 1790. For many of these, the proprietors pay a barley-corn revenue to Government, and yet, though I know them well, I never perceived that their Ryots were more liberally treated than those upon the adjoining properties, which were fully assessed. Mr. Rickards may be assured, that it is not Bengal alone where "rents" are "regulated by no better rule than the power of one party to withhold, and the other to oppress;"\* but that this is pretty much the secret of all bargains between landlord and tenant, wherever those relations exist. It is in India alone, that the state of society is such, that these matters cannot be safely left to regulate themselves, nor interfered with without mischief.

For all the evils,—be they more or less,—which arose under the permanent Settlement, from the sale of estates for arrears of revenue, and which can be fairly brought home to the *peculiar operation* of that system, Lord Cornwallis's plan is justly responsible. An English Nobleman, with

his English advisers, thought this expedient the most humane that could be resorted to as an "ultima ratio:" I have been often told by natives of Bengal, on the other hand, that imprisonment, the lash, or even torture, would have been preferable to the loss of landed property. It is, of course, impossible, that a British Government should have resorted to the practices of negro-drivers; but the feelings of the people being strongly opposed to a system which involved the contingent alienation of their respective interests in the soil, some other plan should have been allowed a trial, at least. In the Upper Provinces, of late years, great care has been taken to avoid recourse to sale, and the revenue has been regularly realized, almost without the assistance of that extreme measure; but, on this, as on all other similar occasions of comparison with the state of things at the present day, we should form a very incorrect estimate of Lord Cornwallis's merits, if we failed to bear in mind the paucity and imperfections of the executive instruments at his command. "Periodical settlements" had been, as Mr. Tucker pointedly observes, "the never-failing source of periodical corruption and abuse;" and it is possible, to say the least, that under the existing circumstances, Lord Cornwallis might have thought the constant interference of the European functionaries with the parties responsible for the discharge of the revenue, a greater evil than was to be apprehended from any

effects of the rule in question. It may be believed, however, that he did not foresee the extent to which landed property would change masters, and still less could he have contemplated the misery that these revolutions occasioned,—both in their action and re-action,—to the old proprietors, and the tenants of the new race of landlords. But that Statesman will be happy, to whose charge as few errors can be laid, whether of the heart or head, as candid posterity will attribute to Lord Cornwallis.

Notwithstanding, however, the admissions which I willingly make,—for I think that in reviewing the effect of human institutions on human happiness, the optimist is as wide of the truth as Mr. Rickards, and the other illuminati of the opposite school,—I should leave my readers under a false impression with regard to my opinions, if I failed to repeat my conviction that a great proportion of those Zemindars, whose estates passed from them under the law discussed in the foregoing paragraph, could not have been saved from such misfortune by any measure short of a general plan of wardship. To the best of my information, this was pretty much their condition at an earlier period of the British rule; for Mr. Francis, in the Minute already quoted, speaks of them, in one place, as “ruined and dispossessed of the management of their lands,” and states, in another, that “instead of leaving the management to the natural proprietors of the lands, and de-

manding from *them* a fixed portion of the produce, we take the management upon ourselves, and pay *them* a tribute; Government stands in the place of a Zemindar, and allows him a pension." Under such a system, these unfortunate gentlemen,—for such many of them were,—could neither have acquired habits of business, nor knowledge of rural economy: still less did their education and habits of mind and life qualify them to contend with the difficulties inseparable from a state of things entirely novel to every native of India, and a plan for the realization of the revenue, quite incompatible with that want of foresight, and that spirit of procrastination, which find, in the bosom of every unenlightened Bengallee, their most congenial soil.\* These poor "children of a larger growth" were not able to stand alone, and they therefore clung with the pertinacity of helplessness to every Eastern Gilbert Glossin, who professed his readiness to relieve them from the cares attendant upon the possession of landed property. Some, like the patron of Gilbert Glossin, had no wish but that "Whit-Sunday would kill Martinmas, and be hanged for the murder," leaving them free to enjoy the delights of oriental listlessness, undis-

\* "A cause which accelerated, but by no means produced, the ruin of the Zemindars, (*for the incompatibility of their character with the situation in which they were placed, led infallibly to the same result,*) was the delay which they experienced in obtaining rent from the Ryots."—Mill. Vol. V., p. 440.

turbed by the periodical calls of the Collector. Others, of more active and ostentatious habits, entertained crowds of useless retainers, and wasted their substance in pomp and pageantry. At that day, there were probably as many Castle Rack-rents in Bengal, as in Ireland. Meanwhile, the fiscal demands of the State, under the new system, were as regular as clock-work; but the money was not as invariably forthcoming. In some instances, the united efforts of "the man of business," and the money-lender, warded off the catastrophe for the moment; in others, the estate was sold piecemeal, to make good the balances as they accrued. The denouement was the same in both cases, except that, in the first, the agent and usurer generally contrived to step into possession of the whole, or a great portion of the property, whilst, in the latter, a large estate was divided among several successive purchasers. To the old proprietors, the result was absolute ruin; but I am convinced that the country in general has benefitted by the change. How Mr. Rickards regards their fate, it is extremely difficult even to guess: for sometimes the Zemindars are described as utterly unfit for the trust committed to them, ignorant, rapacious, and oppressive;\* sometimes, it is represented as one of the worst vices of the permanent Settlement, that it has not restored them to their

estates;\* which, again, within two pages, are stated not to belong to them at all.† I believe, that, in most cases, the misfortunes of the Zemindars are to be attributed to the novelty of the system, their own apathy and mismanagement, the chicanery of their agents, or, (I add with regret,) the villainy of the native officers of the revenue department, unchecked, or, (in more than one instance,) abetted by the local English functionaries; rather than to any excess in the demands of the State. Comparatively speaking, very few estates would seem to have been sold merely on account of their resources being unequal to meet their apportionment of the public burthens.‡ Mr. Rickards endeavours to prove the reverse, with how much success the reader shall determine.

“ It appears,” he says, “ that in the year 1799 alone, that is, ten years after the introduction of the permanent Settlement, estates were

\* Page 589.

† Page 591. - - - “ the entire neglect, if not violation, of the rights and privileges of the minor occupants—the *real proprietors*—of estates, by a hasty transference to others, of what belonged not to us to bestow.”

‡ “ The Zemindary of Budwan, paying an annual revenue to Government of £400,000. remains entire, I believe, to the present day. The Zemindaries, next in extent, and equal at least in antiquity, (those of Rajeshahye and Nuddea,) have both, I fear, been broken down and sold; *but, certainly, not in consequence of over-assessment.*”—Tucker’s Review. Note to page 107.

sold in every province, the Jumma, (the annual demand of Government,) of which amounted to 777,967 rupees, (nearly £78,000,) and only fetched at the sales 654,215 rupees," or nearly £65,500. —Page 596. Again, " it is stated, that in ten years from 1796, lands were sold in Bengal, Bebar, Orissa, and Benares, on account of revenue arrears, the assessment on which amounted to 12,175,680 rupees, (£1,217,500.,) being nearly one-half the whole assessment of the lower provinces, whilst the produce of the sales was only 10,855,537 rupees," (£1,085,500.) " At this time, therefore, the value of the fee-simple of these lands was not equal to one-year's amount of the assessment or tax."—Page 574. There are other passages to the same purport.

Now, in page 360 of his Pamphlet, Mr. Rickards calculates the Zemindars' share, according to different data, at 6 per cent.  $5\frac{1}{2}$  per cent. or  $4\frac{1}{4}$  per cent. of the whole produce. He adds, (and let him take the full benefit of it,) " These, however, are fanciful rates, and serve to mislead; it would be more correct to say, that there is not a single instance of a Zemindary, in which these proportions are practically observed, or can be enforced."

I believe that it is so; but yet it seems to me that there is a vast difference between the value of what English writers and readers generally imply and understand by the "*fee-simple*" of lands,\* and that of an *interest* in the same pro-

perty, varying, in theory at least, between  $4\frac{1}{2}$  and 6 per cent. of the whole produce. Mr. Rickards cannot but know, that the purchasers of the estates in question, only bought the right of collecting the rent from the cultivators, and appropriating the difference between the sum so collected, and the amount of the Government demand. He states, himself, that, according to the principle of the permanent Settlement, the Zemindar was only entitled to one-tenth or one-eleventh of the rent paid by the Ryot; but, supposing that he got one-seventh, (and the higher you raise his share, the more improbable do you render it that the defaulter was driven into balance by mere insufficiency of assets,) it is quite clear that the thing purchased was only that lien. Mr. Rickards is, therefore, in this dilemma: if the difference between the rent paid by the Ryots and the demands of Government were considerable, the defaulter had no reason to complain of the severity of the assessment; if it were small, an annual income, in one case, of £7500., in the other, of £121,750., were not severally badly sold at £65,500. and £1,085,500., as far as the interests of the defaulters were involved; whilst the sums bid, at open auction, for the rights of those defaulters, prove, that the purchasers, at least, were not quite of Mr. Rickards's opinion with regard to their worthlessness.

It is but justice to Mr. Rickards to admit, that the lands which were sold in 1812, in Tirhoot,



Shahabad, Burdwan, and Nuddea, “and did not yield a sufficient sum to discharge the arrears of Government,” make decidedly for his case. But it were vain to expect, that a measure of such magnitude could have been carried into execution without errors, and some few estates were, doubtless, over-assessed. But it should also be recorded, as a weight in the other scale, that some property which was sold in Shahabad, subject to a fixed payment of 70,917 rupees, yielded, at the sale, 675,295 rupees;\* and that other estates in Behar and Benares, assessed at 22,156 rupees, sold for 376,125 rupees.—Pages 370-1. I may add, that during the time I officiated as Commissioner in the Sunderbuns, I sold exactly six estates for the realization of arrears of public revenue. The average proceeds of sale were thirty-six times the amount of the annual Jumma under the permanent Settlement; and they were, probably, by no means the most profitable estates in the district. It is evident, that property of that value could not have been sold from inability to satisfy the demands of the State. One was brought to

\* There surely must be some mistake in this case, as stated by Mr. Rickards. It seems very improbable, that property originally assessed at R.75,687., but yielding only an average revenue of R.66,332, (or falling annually short R.9,355.,) should fetch such a sum as R.675,295., when put up, under the condition of paying R.70,917, or R.4,585. more than had ever been realized from it before. £67,500 is a great sum of money to give for the privilege of making good an annual deficiency of £450.

sale on account of disputes among the co-partners; and the other proprietors, I was told, fell purposely in arrears, because a public sale of that description, giving the best title, ensures the best price.

Such is a very hasty and imperfect analysis of that great financial operation which Mr. Rickards declares has hitherto been productive of “one continued series of almost unmixed evil.” It has also been designated by no incompetent authority, as “the noblest monument of a just and liberal policy, which was ever erected in a conquered country.” The proud distinction which this eulogium confers, is justly due to the memory and living merits of the men who executed and sanctioned it, for the single-minded benevolence of their *intentions*; we may add, for the soundness of their general views. As regards the *effects* of the measure, the truth must be sought somewhere between the extremes of unqualified praise, or censure. Considering it dispassionately, however, and tracing down all the streams of consequences that have flowed from it to their several results at the present day, I am firmly persuaded that the permanent Settlement has produced a great preponderance of good. With this, there was, as regards its earlier effects, a very considerable admixture of alloy; but in forming our estimate of its merits, care must be taken not to confound the pre-existent disorders which it was inadequate to remedy, and the wants which it failed to supply,

with those evils of which it was in some sense the original spring ; and we shall be no less liable to error, unless we bear in mind the reduced and unhealthy condition of the body politic to which it was applied. Nations, like the human frame, may be so distempered, that the measures which eventually prove sanative, are answered in the first instance by convulsions alone. But we certainly mistook, in some measure, the genius of the people with whom we had to deal. Let it be remembered, however, that the evils involved in the system have long ceased to be felt in any painful degree, whilst all that was good is still operating actively, and in a yearly increasing ratio, upon the resources of the country ; and that the rulers of British India have not allowed the practical lesson to fade from their recollection unimproved. “ We have found in too many instances, how ill-suited intricate arrangements and regulations are to the manners and capacities of the people of India, to enter willingly on a new career of complex legislation.”\* We have learned, too, how to proceed towards a really equitable adjustment of the public burthens, with the fairest prospects of placing the rights of every individual, possessing the smallest interest in the soil, beyond the contingency of infringement, in those provinces where the Settlement is still open to revision. If proof be wanting, let reference be made to Regulation VII. 1822, and the Resolution

\* Mr. H. Colebrooke’s Minute, 1st May, 1812.

of Government, dated the 1st of August of that year, which are to be found in the 2nd Volume of the Revenue Selections, Page 319 et infra. If Mr. Rickards will carefully peruse those papers, he will find some principles of action laid down, and some objects of attainment pointed out, much nearer allied to "judgment" than "oppression," and savouring more of "righteousness" than of "a cry."\*

But the permanent Settlement has produced fruits more precious even than those which display themselves in the growing wealth of the country, the great extension of cultivation, and the creation of a class of capitalists; and these are to be found in that confidence and respect with which the experience of forty years has taught the people to regard the political morality of their rulers. We shall fall greatly short of the reality, if we attempt to estimate the extent and value of this influence upon the minds of our subjects by any European or Christian standard of calculation. For the full comprehension of its effect, we must endeavour to place ourselves in

\* I observe, that Mr. Rickards speaks of Reg. VII. 1822, in his exceedingly curt chapter upon the Revenue Settlements in the ceded and conquered provinces. Mr. Robertson has already treated of the candour which Mr. Rickards displays in this part of his work, as exemplified by pointing out evils in *Italics*, and entirely neglecting to mention that measures of remedy and reparation have been in full activity since the year 1821.

the situation of a people not only demoralized, as regards the sacred obligation of truth more especially, to a degree almost incredible, but shortsighted, and impatient to catch at every shadow of immediate advantage, to the disregard of future substantial benefits. We must bear in mind, too, the ages of tyrannical misrule through which they had passed; the necessity under which, in common with all Asiatics, they and their fathers had laboured of concealing whatever wealth they possessed from the observation of their rapacious masters; and the almost instinctive suspicion with which persons, so long subject to every species of fraud and wrong, must receive, in the first instance, the advances of conciliation, and the offer of an even-handed and perpetual compact. The generation to whom our faith was plighted has almost passed away, but their sons are witnesses of the scrupulous nicety with which the Servants of the Honourable Company have adhered to their engagements, though their financial situation has, at times, been far from prosperous, and though the great accumulation of capital in the hands of the landholders, has held out temptations which our subjects well know would never have been resisted for a moment, by any of their former rulers. In this point of view, it appears to me that the beneficial effects of Lord Cornwallis's measure are incalculable; but Mr. Rickards has not deigned to place them as a feather in the scale. In fact, I do not find that he has alluded to them

in the most distant manner. Yet I am persuaded that we owe to our conduct in this respect much of our moral power over the more intelligent portion of the native community; and to this ascendancy, co-operating, of course, with our intellectual superiority, it is notorious that we owe every thing. Time has consolidated the scheme and the institutions which grew out of it, and it now affords us a substantial fulcrum for the application of influence upon the higher classes of society. It has truly been said that "character is power;" and I am firmly convinced that the present Governors of India have now no task before them, but to consider well the responsibility which the possession of this great moral engine imposes upon them, and to act zealously up to their sense of duty.

Since the above paragraphs were written, I have referred to the authority upon which Mr. Rickards founds his principal argument in invalidation of the beneficial effects of the permanent Settlement, as manifested in the increased extent of cultivation. To avoid the possibility of misconstruction, I place the original text and the paraphrase in parallel columns, that my readers may judge of the degree of fidelity with which Mr. Rickards reports the sentiments of Indian Statesmen.

**Mr. Rickards, Pages 593-4.**      **Lord Moira's Minute, Paragraph 68.**

<p>" But, in Bengal, of late years, and in the ceded and conquered provinces, vast tracts of</p>	<p>" The presumed inaccuracy of all the Ruckbas, from which</p>
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land have been discovered to be secretly held by individuals, of which nothing was known at the formation of the permanent Settlement. These, in late Reports, are called Toufer, or Toufeer, meaning increase, or excess,—that is, land held and cultivated by individuals unknown to the assessors, or fraudulently excluded from the Canooongoes' and Putwarees' Registers. In the before quoted Minute of Lord Moira, on the revenue administration in Bengal, 21st September, 1815, there is a circumstantial account of these Toufer, or Toufeer, lands, the extent of which, he says, is incalculable; extensive tracts being daily discovered, even to whole villages, unknown to, or omitted from, the village records. *Lord Moira, therefore, does not consider the supposed improvement in Bengal to be at all dependent on the permanency of our Settlements, but to have arisen as much from the discovery of Toufer land, as from wastes since cultivated.*

the records of the extent of land in cultivation are drawn up, leaves me without the means of declaring, with any confidence, to what extent cultivation has extended since that period.\* *The general opinion certainly is, that it has extended greatly; and what I have witnessed leads me to think the belief well founded.* The Collector of Bundelcund, indeed, reports the extent of land in cultivation, at the present time, to exceed, in a ratio considerably beyond one third, the extent in cultivation in the year 1807-8: but he acknowledges he has no reason to believe the statements of either period accurate; *and the excess arises possibly as much from Toufer land, since discovered and annexed, as from waste since cultivated.*"—Rev. Selections, Page 413.

\* Not the period of the permanent Settlement, be it remarked, but the date of a foregoing temporary Settlement of the Western Provinces.

Throughout the Minute in question, Lord Moira does not say one word from which Mr. Rickards's inference of his opinion can legitimately be deduced. The paragraph given above, part of which

Mr. Rickards quotes almost verbatim, refers exclusively to the district of Bundlecund, which is beyond the limits to which the permanent Settlement extended. Where his Lordship *does* mention Bengal, (which is only, I think, in the 62nd paragraph, and incidentally, for the Minute is devoted to the revenue of the districts still unsettled,) he speaks of toufeer land, and land lately brought into cultivation, as identical;\* but he no where mentions the “supposed improvement in Bengal,” as arising either from the one source or the other. He expresses, indeed, no opinion whatever on the subject, and even uses the word “possibly,” to qualify his sentiments with regard to Bundlecund; but our Indian reformers know no such vocable.

I believe that I need make no further remarks upon the tone and temper in which Mr. Rickards’s diatribe upon the permanent Settlement is written; nor weary myself and my readers by pointing out any more of the thousand and one misconceptions,—some absolute, some of degree,—into which he has fallen. He who will always look at actions and their consequences through a jaundiced medium, must often fall into error: he that forms his estimate of measures, with systematic disregard of the relations in which they

\* “Lands lately brought into cultivation in the Sunderbuns, though notoriously toufeer,” &c. — See paragraph 4, in which Lord Moira disclaims the intention of treating on the lower provinces.



stand, and the nature of co-existent circumstances, can never, but by accident, be right.

I turn now to Mr. Crawford's work on the "Free Trade and Colonization of India;" and as the text which I propose to comment upon is short in comparison with the lengthiness of Mr. Rickards, I insert it, for the sake of perspicuity.

"It would be vain to attempt to trace all the evil consequences which arise out of this prohibition of Englishmen to invest their property in the soil; but there is one of a very striking and comprehensive character to which we shall allude. The interest of money in the commercial towns, where English law exists, is certainly in no case above one half of what it is in the provinces, where the enactment and the execution of the law is left to the East India Company. This, however, is not all: British subjects beyond the limits of the towns in question, being prohibited from investing their capital in the soil, can receive no security upon lands or tenements, and the lands and tenements of the protected towns are far too small in value to afford security for any considerable portion of the available capital of India. The effects of this are striking and monstrous. There is no lending of money on the security of real property, and the public funds necessarily become the only certain investment. While the profits of stock are much larger in India than in England, the local Government in India is, not-

withstanding, always able to raise money at an interest very little higher than the Government of the Crown in England, at a moment that private merchants, even of the highest credit, will have to pay half as much more, and often double as much. During the Burmese War, the East India Company borrowed money at five per cent., while the most respectable Merchants and Agents in Calcutta were paying ten. The East India Company, in short, as here exhibited, has taken advantage of its own wrong. It commands the money market by a law of its own enacting, an obvious encouragement to wasteful and profligate expenditure. The capital which would naturally go to improve the agriculture and commerce of the country, is thus unjustifiably drawn off to the public Treasury." Page 55, 2nd Edition.

Now there is no little ambiguity in this paragraph ; for the first hardship complained of is, that the British subject cannot *lend* his money on the security of landed property, and the second grievance sets forth that he cannot *borrow* on such good terms as the Government. Moreover, " the available capital of India " is spoken of, without any intimation, that, with the exception of the property of Civil or Military Officers, (who would certainly gain nothing in respectability or usefulness from becoming land-jobbers or mortgagees,) ninety per cent. of it, at the very least, is in the hands of natives or Indo-Britons, who are subject to no limitations with regard to its disposal. It is necessary

to draw a distinction here, because every farthing possessed by those classes may be devoted, if they please it, "to improve the agriculture and commerce of the country;" and cannot, in consequence, be said to be "unjustifiably drawn off," *from that description of investment*, into the public treasury. Mr. Crawford, therefore, must either mean that English Capitalists cannot lend to native landholders on mortgage of their estates, or that the Merchants of Calcutta, not being permitted to purchase and hold land, cannot offer, either to English or Native capitalists, security for their loans on such possessions. I really do not know which of these cases it is intended to specify, but my uncertainty is of the less consequence, as I cordially concur with Mr. Crawford in regretting that Englishmen are precluded from holding land in British India. From that point, however, we are at issue; and our difference is rather wide, notwithstanding our community of sentiment upon one item. In substantiation of my charge of "pessimism," I shall endeavour to shew that in his anxiety to heap obloquy upon the East India Company, and to prove, that, under their government, "whatever is, is worst," he has so far over-shot himself as to ascribe to causes quite inadequate to their production, effects which may be otherwise satisfactorily accounted for.

British subjects, it seems, are prohibited by law from holding land beyond the limits to which the jurisdiction of the King's Courts extend; and, therefore, the Merchants and Agents of

Calcutta, when they wish to raise money, are unable to offer the security of real property. The consequence is stated to be, that they are obliged to pay very high interest for the money which they borrow on security less satisfactory to the lender. But, without capital, they could not purchase land, and if they could and did hold real property, they could only borrow on mortgage to the extent of its value. If they do not possess that real property, therefore, they must have the capital which the restriction in question has prevented them from investing in land: they must have it in some form, or it is idle to complain that men are not permitted to purchase what they have not the means of paying for. How happens it then, that, with so much money lying idle by them, they find it necessary to borrow? But it may be said, that the money which, under a better system, would be invested in land, and kept ready in that state to pledge upon occasion to the capitalist, is, under the existing laws, lent to Indigo Planters, or wrapped up in ships' bottoms or cargoes; and affording, 'in those shapes, a very inferior species of security, the merchant is obliged to pay a proportionably high rate of interest for any accommodation that he may require. What then, if Englishmen were permitted to hold land, would trade be abandoned, or present relations between Agents and Indigo Planters cease to subsist? for the capital, great or small, could not at the same time be employed in commerce, or loans

to Planters, and invested in real property, free from mortgage, and affording eligible security. It could not be, like the Irish bird, in two places at once. Is it then, that the Merchants and Agents of Calcutta require accommodation *beyond* their capital? If so, they must pay interest on such loans in proportion to the risk incurred by the lender; and they must do so, though they had a million sterling invested in land, for every shilling that they asked for beyond that sum.

It may be said again, though with but little colour of plausibility, that it is the Merchants and Agents themselves who are so tied down with regard to the investment of their capital, that they are forced to lend it to the government at 5 per cent. But, in Calcutta, government paper is as good money as the currency; why then borrow at an extravagant rate? Besides, if it be not convenient to sell it, it is as good security as land,—preferable, indeed, in some respects, for the lender, to whom it is formally made over as security, is safe, I conceive, from any risk of loss, from claims on the ground of prior lien; and it is much easier converted into a common medium than real property. It certainly may not pay quite such good interest pending the mortgage; but Mr. Crawford may be assured that the gentlemen whose cause he advocates so zealously, have very little property in the public Stocks of India. They have plenty of constant employment for their capital, and need not invest it either in land or in

Government securities, for the sake of going through the round-about process of borrowing upon its security. I need scarcely repeat that they cannot have the same capital both in employment and investment.

But, suppose for a moment, that capital had this happy ubiquity, and the strong tendency to invest itself in land, which Mr. Crawford attributes to it; doubtless, then, though “the lands and tenements of the *protected* towns are far too small in value to afford security for any considerable portion of the available capital of India,”—that is, be it remembered, of the available capital of those persons who labour under restrictions,—every acre of land, every dwelling house within the “little Tadmor,” hedged in by the Supreme Court, is eagerly grasped at for the investment of the capital of those who cannot hold real property beyond the limits in question. Doubtless, though there be not enough for all, whatever there is, is in the possession of British capitalists. This would seem a legitimate conclusion; but Mr. Crawford is very good authority, and he says that it is not so. Strange as it may appear, “the Indians are the holders of all the native buildings in Calcutta, of all the public markets, and of the majority of the houses built by, or for Europeans.”—Page 50. To this investment it seems they are impelled by a very natural abhorrence of the “despotic misrule and insecurity” which obtains elsewhere. What a scene, then, must Calcutta

present, when landed property is advertised for sale, from the antagonism of two such mighty principles of action! The native, rushing from the interior of the country with the proceeds of the property which he has got rid of at any loss, that he may shake the dust off his feet against the Judges and Collectors of the Company, and settle himself, with all that belongs to him, under the protection of the Attornies of "Tadmor," meeting at the auction with the British subject, whose money is rusting for the want of investment, and who is eager to secure the greatest possible quantity of "the lands and tenements of the protected town!" The value of real property so coveted, must be raised beyond all measure. Alas! that this reasonable deduction should not be borne out by facts. There is no such scramble as might be supposed; and the value of lands and tenements in Calcutta, is regulated as in England, partly, indeed, by the variation of population, Native or European, and the demand with respect to hire, but principally by the market price of government paper.\* The Merchants and Agents of Calcutta

\* It may be as well to mention here, with reference to the statement made by Mr. Crawford, in Page 50 of his Pamphlet, that dwelling houses, situated near Calcutta, but within the "vast desert of despotic misrule and insecurity," bear, at least as near a proportion in value to the houses placed in the fashionable or mercantile parts of the town, within the jurisdiction of the Supreme Court, as villas at Hampstead or Wimbledon, to the mansions of Grosvenor Square, or the counting houses of the City. I take the same opportunity of assuring

do not generally hold real property, except as the representatives of absentees, because, as I have said, their capital is much more beneficially employed; and natives hold a far larger share of it than Englishmen, because the aggregate disposable capital of the former persons exceeds that of the latter, in a ratio almost incalculable.

I am proud to admit that “during the Burmese war the East India Company borrowed money at five per cent., while the most respectable Merchants and Agents of Calcutta were paying ten;” but it is by no means true, that “the local Government in India is *always* enabled to raise money at an interest very little higher than the Government of the Crown in England.” This, however, is immaterial: I proceed to explain the causes which enabled their Servants to raise money to meet the public exigencies on terms so much more favourable than those to which the Merchants and Agents of Calcutta were obliged to submit; and if, in defending the Company’s Government from misrepresentation, I am compelled to make some statements which those Gentlemen may find unpalatable, they may thank

Mr. Crawford, that he has been misled by those who informed him, that real property in the provinces is not worth five years’ purchase. The possession of land is coveted in India, as elsewhere, from other motives besides a mere calculation of principal and interest; it gives consideration, and nine out of ten of the wealthier native gentlemen of Calcutta hold extensive property in the provinces.



Mr. Crawford's overflowing zeal, and call to mind, for their future guidance, that clause of "the collective wisdom of nations," which warns those who own glass houses not to throw stones, either in person, or from the sling of a literary champion.

Before the local Government of India opened their books for subscriptions to the loan in question, the Merchants and Agents were in undisturbed possession of the money market of Calcutta, the only competition being among themselves. Money was plentiful, but there was no superabundance of it; and all the funds which the mercantile community could readily command were employed as usual in commercial speculations, or advances to Indigo Planters and others. Now, the sensation which the announcement of a loan excites in Calcutta cannot be properly appreciated, until it be known that, comparatively speaking, a very small portion of the capital with which the several Houses carry on business belongs to themselves. They are all Agents as well as Merchants; and in their former capacity, the savings of every Civilian and Soldier who does save money, pass through their hands. These amount to a very large annual sum, and much of it is left in their keeping at a higher or lower rate of interest, according to the state of the market, the acuteness of the remitter, and the credit of the Firm. I say the acuteness of the remitter, because those who are keen, and who are, either in person or by proxy, on the spot, obtain, of

course, better terms from their Agents, than those who are distant or supine. I also speak of the credit of the House as regulating the amount of interest, because it has more than once happened of late years, that principal has been run against a high return, by persons who did not think themselves gamblers, and who have been very much surprised when the vole has swept the table. Of course, the more respectable Houses are not driven to play such a desperate game; but, with one or two partial exceptions at the utmost, they are all alike dependant for capital on the accumulation of the Company's Servants, or the profits of the more fortunate Indigo Planters.

But much of this borrowed capital belongs to men who are keenly enough alive to their own interests, and drive their bargains with their Agents according to the general state of the money market; still more is the property of persons who are only waiting favourable opportunities for remitting it to England, or investing it in Government securities. With the current commercial year, all obligations end, and the Agents are liable to be called upon to refund every rupee which their constituents have lent them. In the usual course of events, however, supposing the credit of the firm to be unimpeachable, such demands are very far from general, and the Agents are, consequently, not compelled to recall their funds from distant and beneficial employment. It often happens, perhaps, that

the money borrowed from A. at six or seven per cent., has been advanced to B., a young indigo planter, at twelve; or, has taken its departure, in the shape of opium, to the Eastward, from whence a return of twenty per cent. is expected. Or, it has been lent to relieve the embarrassments of some gentleman, with a good income, but straitened circumstances, upon terms, which average, when life insurance and commission are added, from twelve to fifteen per cent. In all these, and a hundred other cases, the capital employed cannot be recovered at a short notice; but the risk, as I have said, is commonly very small, and the amounts of the deposits of individual seceders can be made up from the private purses of the members of the firm, or raised, with very small sacrifice, in other quarters.

But the case is very different, when the intention of Government to negotiate a loan is announced. All the persons who are really anxious to realize a certain income, without hazard of principal, and who, therefore, prefer five per cent. in the public securities, to six or seven from their Agents, withdraw their capital, or are prevailed upon to refrain from that step, only in consideration of the two or three per cent. additional, which is offered them for one, two, or three years certain. The other class of speculative lenders, probably, insist upon still better terms, and their Agents have no alternative but to submit, or to raise the amounts of their se-

veral deposits in the money market, where the necessity, under which they are placed, of paying a certain sum at a certain time, is as well known as in their own counting-houses. Mr. Crawford is very much mistaken, if he suppose that the "credit" of individuals is the sole regulator of the terms on which they borrow. What does the money-jobber care about the *credit* of those whose *wants* give him an advantage? At the time to which Mr. Crawford refers, every child in Calcutta knew that some of the most respectable Agency houses were very hard run for funds, and the consequence was that they were at the mercy of the capitalists. But their situation was no more attributable to the restrictions which prevent them from becoming landholders, than to the influence of planetary conjunctions.\* What had become of the capital which they were prepared to invest in real property? To their ordinary constituents they never give security, so that whatever funds they really possessed were fully

\* It seems clear to me, that if British subjects were permitted to invest their capital in the soil, and, consequently, to lend money on mortgage of real property, the Agents of Calcutta would not only derive no benefit from the change, but would feel the reduction of deposits so sensibly, as to be obliged to confine their transactions within much narrower limits. They would then have, in the class of landowners, another great competitor in the money-market, and they would appear to have quite as much business at present as they have capital to answer its calls; or why are they driven, on every emergency, to borrow on extravagant terms?

available to meet the exigencies of the moment. For whatever sums they were compelled to raise beyond that amount, and without, I suppose, any security beyond their credit, they were, of course, obliged to pay in proportion to the risk incurred, and their known wants.

But, in estimating the difficulties to which the Merchants and Agents of Calcutta were reduced, at the period in question, reference must be made to events which narrowed the market in which they applied for accommodation, and, consequently, enhanced the terms. The recent failure of two respectable houses had caused considerable panic among the native capitalists, who possess more delicate nerves, and less power of discrimination, than their European brethren; and there certainly were circumstances connected with one of those bankruptcies sufficient to justify any persons not so enamoured of the law of England, as to love even its chastenings, in feeling some little indisposition to trust their money again within the scope of its peculiar provisions, until the smart of the late blow had somewhat subsided.

A firm in Calcutta, having very extensive indigo works in the Upper Provinces, and receiving, as I have been informed, considerable assistance from monied natives, in the form of loans, or fixed deposits, became embarrassed, and was only prevented from immediate stoppage by the funds with which it was supplied,

from time to time, by a more opulent house. But the parties, making these advances, secured themselves against all hazard of loss, by taking advantage of that provision of English law, which gives to the holders of what, I believe, is called a bond in judgment, a claim, prior to that of all other creditors, for the full satisfaction of their demands. Having received this, *au pis aller*, they continued to prop the sinking firm, until one of the partners of the latter establishment, examining the books, on his return to Calcutta from the interior, refused to lend his sanction to proceedings so delusive, and insisted upon the immediate and public disclosure of their insolvency. There were, at that time, no bankrupt laws in India, and the house that held the bond in judgment swept the whole property, to the exclusion of all other claimants. Persons, properly authorized, were dispatched to the Upper Provinces, and succeeded in attaching the factories in that quarter, before the native creditors on the spot had notice of what was passing at Calcutta. The whole transaction was strictly legal, and afforded a beautiful exemplification of that "perfection of human reason," which metes out to one creditor twenty shillings, and to another, not the tithe of a farthing in the pound. \*

\* This is the manner in which the story was told in Calcutta. I heard it, with more or less of particular detail, both from natives and Europeans. I believe it to be perfectly correct in all essential points. I am certain that the natives complained

But the native creditors of the insolvent firm were by no means satisfied with the lawful manner in which their property had been “conveyed” from them; and their indignation was only equalled by the astonishment with which they regarded, what seemed to their ignorance, a proceeding of supreme hocus-pocus. However, what they lost in money, they gained in caution; and not only the persons who had been personal sufferers from the two bankruptcies, but the majority of those who were acquainted with the facts above related, either declined altogether to advance any part of their capital to the Merchants and Agents in want of such accommodation, or were only induced to enter upon a speculation, so hazardous in their eyes, by the offer of very high interest. The borrowers were thus thrown, comparatively speaking, into the hands of the monied Europeans, from whom they neither received, nor could have expected, any particular tenderness.\* Some of the houses, indeed, borrowed at twelve per cent., if not at a higher rate.

Now, notwithstanding “the indiscriminate, short-sighted, and injudicious rapacity of the

that they had been over-reached in the manner described, and that impression upon their minds would have produced all the effects which I ascribe to it, although it had been unfounded.

\* Mr. Crawford has neglected to mention, that the Agents wanted to borrow at short dates, the Company for an indefinite, but certainly a very long, period.

Indian Government,"\* it has never practised any species of legerdemain upon its creditors, and, therefore, it found the public willing to supply its wants on very easy terms. Owing to good management, also, the extent of those wants was not generally known, and the low rate of interest offered, and the confident tone assumed, had their effect upon the market. I have reason to believe, that consideration for the very parties whom Mr. Crawford regards as so especially aggrieved, influenced the measures of the local Government. This much, at least, is certain, that if the loan had been opened at seven or eight, instead of four and a half or five per cent., many of the most respectable Merchants and Agents of Calcutta would have found it extremely difficult to maintain their credit. Unless Mr. Crawford has been kept woefully in the dark by those Gentlemen who have appointed him their advocate, he must be well aware that the Government which he represents as having "taken advantage" of its own wrong," stepped forward, at the very period in question, to supply the deficiency of the money-market from its own funds. But what are such obligations that they should be placed in the balance against the over-ruling sense of public duty?

Horne Tooke declared himself satisfied to accept as his Epitaph the contemptuous sarcasm of



Junius; and I think that the character of the local Government of India would be but little endangered, if the subject matter of Mr. Crawford's attack were made the criterion of its deserts, both with respect to his charges and those of Mr. Rickards. It appears, by the former Gentleman's own shewing, that at the very moment when external difficulties pressed most heavily upon the Rulers of British India, whilst they were engaged in humbling the arrogance of Ava, in the South-East, and levelling the ramparts of Bhurtpore, in the North-West, (a vast extent, both of land and sea, separating the scenes of these simultaneous operations,) they succeeded in raising very considerable loans, on terms far more favourable than had ever been obtained at any former period. Now, the facility and cheapness with which a Government can raise money, are commonly attributed to causes, which demonstrate, by their very existence and active influence, that its fiscal arrangements have not materially interfered with the accumulation of capital, nor checked the growth of that confidence, which it is almost a truism to assert, that nothing but a uniform fidelity to engagements, joined to a system of general policy indicative of stability, can generate or uphold. It is, therefore, eminently incumbent upon those who maintain, that the rule of the Company has been distinguished by characteristics directly opposite to these, to point out in what manner the high public credit of the local

Government of India can be reconciled with their representations.

I cannot find a single passage in those parts of Mr. Rickards's work which have been hitherto published, from which it may be conjectured that it has ever occurred to that gentleman to glance at the estimation in which one branch, at least, of the Company's administration is held, by the monied class of their Indian subjects, as a touch-stone of the general merits of their system. The readiness with which the natives of Bengal supply by loans the large pecuniary wants of their Rulers, never appears to have struck him as a conclusion, calculated to roll back upon his premises of plunder and misrule the conviction of absurdity. For, if the land-tax absorb little less than the whole rent of the soil, in a country whose resources are almost purely agricultural, no general accumulation of capital can possibly take place, which the Government may eventually borrow ; and it is scarcely to be supposed, that the few individuals who may be able, by dint of superior cunning, to scrape together a hoard, under such an iron and pocket searching despotism as is assumed to exist, would court their own ruin, by lending it to their oppressors, even on the most usurious terms. But, as Mr. Rickards has never perceived the dilemma, it is useless to enquire how he proposes to escape from it.

Mr. Crawford, on the contrary, saw the diffi-

culty at a distance, and prepared himself to combat it. He is too good a tactician not to know that a resolute attack is often less dangerous than the defence of a bad position ; so he founds an accusation on the very facts which his opponents might be disposed to appeal to in support of their cause. But what is the nature of the charge ? Forgetful that the principal creditors of the Indian Government are its Native subjects, and making no reference to the sources from which the Merchants and Agents of Calcutta derive their chief supplies of capital, or to the other circumstances which I have explained in the foregoing paragraphs, he roundly asserts that the Servants of the Company were enabled to raise money at five per cent., at a time when private individuals were obliged to pay ten, *because* the latter were not permitted to hold real property in the Provinces : thus endeavouring, by the aid of a monstrous non-sequitur, to represent what was in fact, time and place considered, a state of unparalleled public credit, as an item to be carried to account to swell the grand total of imputed error and misgovernment. It would have been better, perhaps, if he had imitated the prudential silence of Mr. Rickards.

After these samples, I trust that I shall not be thought to have dealt Messrs. Rickards and Crawford hard measure in describing the pictures which they have drawn of the internal administration and condition of British India as fancy-pieces or cari-

catures. He that uses but one colour, whether dark or bright, or confines himself exclusively to the language either of panegyric or vituperation, can neither follow nature in the physical, nor promote the real interests of mankind in the moral world. But he may be an excellent Guerilla, and a matchless writer of party Pamphlets. The truth,—the one object of every wise man's search,—will generally be found to lie midway between the opinions or statements of those who run into such violent extremes. Thus he who comes to the consideration of the subject with an unprejudiced mind, will find that the East India Company's administration of the vast Empire which Providence has permitted them to acquire, is chequered with excellencies and defects, with advantages and offsets; the good and evil being sometimes broadly marked, and easily separable; whilst, in other cases, those opposite principles are so intermingled, are blended with so much of a doubtful character; and must be regarded with such constant reference to their connexion with independent circumstances, as to render it extremely difficult to bring the institutions in which they are combined to any certain standard. In many instances, the labour of such a task will be found excessive, by all who are not disposed to estimate measures in the lump, as absolutely wise or unjust; to regard Colonization and free Trade as all that is necessary to render India an earthly Paradise; or to denounce the founders of the British

Empire in the East for that ignorance of general principles which is manifested in their adherence to the system of taxation that had exclusively prevailed for centuries. On the other hand, I think that those,—if such there be,—are equally unfitted to serve as authorities or guides, who profess to see nothing deserving of animadversion and rebuke in the past conduct of Indian affairs; and refuse to contemplate and provide for the future destinies of our noble dependency, with every assistance which the light of increased information and intelligence can impart. The road to political wisdom would be royal indeed, if the object were attainable by the mere adoption of such sweeping conclusions. Those who decline to make this short cut, will have to toil through much contradictory evidence, to weigh the difficulties of situation, and to calculate the quantum of moral resistance which the machinery of Indian Government has had to overcome. Further, taking into consideration the limited command of instruments, they must carefully enquire how often, even in its legislative enactments, it has had but a choice of evils, how often it has been obliged to contract its sphere of action and usefulness,\* to

\* e. g. By Regulation IX. 1819, the higher Courts of Civil Jurisdiction were authorized to admit special Appeals, whenever, from a perusal of the Decree of the Lower Court, there might appear probable ground, from whatever cause, to presume a failure of justice. This Provision the Government was most reluctantly compelled to repeal by Regulation II. 1825,

allow evils to remain unremedied, or to apply temporary palliatives in the stead of efficient cures. The candid will at once perceive, that with such a field of enquiry open before them, the mere iteration of a party watchword can only serve to bewilder; and that the unqualified reprobation of a system, which, considered as a whole, has many and powerful advocates, must be listened to, and acted on, with the most cautious deliberation. I had almost said suspicion, for it must be believed that where rulers are in any considerable degree honest and conscientious, the generality of their measures must be *intended* for the good of the community which they govern; and if to those qualities they add moderate ability, it is not probable that they will often miss their aim. Even their enemies do not always deny them these requisites to the extent necessary for my argument, and they have enjoyed, therefore, this advantage over those who regard their actions and institutions as almost uniformly unsound in principle and mischievous in practice, that they have had the *choice* of them, except where such extrinsic circumstances as were partially or wholly beyond their controul, have limited that freedom. To some of those obstacles I shall presently refer when I come to

the files of the Sudder Dewanny Adawlut, (the Supreme Civil Court,) being so overburthened with appeals of the nature in question, as to prevent the Judges from proceeding to the trial of other and still more important causes, and to throw the whole business of the Court into arrears.

speaking of the administration of Civil and Criminal justice. But I propose to consider, in the first place, the merits of Mr. Crawford's plan for the regeneration of British India by the free admission of Colonists from the Mother Country.

When I expressed my extreme scepticism with regard to the high pretensions of Mr. Crawford's universal nostrum, I was very far from intending to disparage its real merits. I do not dispute the acknowledged virtues of Eau de Cologne, because I question the soundness of its claims to equal celebrity as a styptic, an antispasmodic, and a febrifuge, as set forth on the wrappers; nor am I disposed to alter my long cherished opinion with regard to the safety of permitting British Subjects to settle in India, because Mr. Crawford has arrived at that conclusion by the help of some very equivocal arguments, and has greatly over-stated the benefits to be expected from the removal of existing restrictions.

These limitations will, I fear, indispose Mr. Crawford to receive me as an Ally in the good cause; and, doubtless, he will regard my advances with still greater suspicion, when I avow my conviction, that, whatever other bars to an unrestricted intercourse may be removed, the power of what has been called "summary transmission," now vested in the Governor General, cannot, in prudence, be dispensed with. Under such a safeguard, lodged in hands responsible only to the authorities in England, I have no apprehen-

sion that the unlimited settlement of British subjects in India would be attended with any evil consequences; and I confess, on the other hand, that I have no sympathy with those zealots of freedom who feel themselves manacled whilst such a possible infliction is hanging over them, nor any community of opinion with the more calculating advocates of Colonization who profess to believe, that, if no other impediments remained, the continued existence of this discretionary power would prevent the free investment of English capital in the soil or manufactures of India. The calculations which could be influenced by a contingency so remote and improbable, must be very nice indeed. Surely, the discreet and orderly Planters or Traders, whom Mr. Crawford represents as the least likely persons to offend the prejudices of the native population, would scarcely excite the jealousy of a Government, which, if it took no interest in their welfare, has always cares enough upon its hands to keep it from becoming wanton and mischievous.—Besides, is nothing to be allowed for the controlling power of public opinion; is the heavy responsibility involved in the exercise of a prerogative so extreme, no check upon its abuse; and is it to be supposed, that, in the event of such abuse, justice and reparation would be sought in vain at the hands of the Authorities in this country? If prudent men, of average strength of nerve, be satisfied on this head, little attention need be paid to the morbid



timidity of those who take fright at shadows ; and if practical proof be wanting that the first assumption is well founded, the conduct of those Gentlemen, who have lately opposed the Stamp Regulation, in every stage of its progress and operation, would seem marvellously unlike the guarded demeanour of persons trembling under the suspended sword of arbitrary authority. The most respectable Merchants and Agents of Calcutta have no more surety, in this respect, than the humblest planter ; but, as far as my observation has extended, both alike carry on their business in the fullest confidence that they have nothing to dread from the Government in the shape of injury or molestation. They are thus confident, because they know that they must go strangely out of their direct path, to attract the unfavourable notice of the ruling power at all ; and that their offences against society must be very great indeed, to provoke the local Government to banish a British subject :—a duty, not only painful in itself, even when most imperiously called for, but entailing upon those by whom it is executed, such certain future disquietude and vexation, as might induce any man, not inclined to “ steer too nigh the sands to boast his wit,” to perform it only upon the clearest necessity, and after the most mature deliberation.

I should not, of course, advocate the free admission of British subjects into India, if I did not agree in opinion with Mr. Crawford, that “ we

have nothing whatever to fear from its native inhabitants," in any form approaching to revolution. I think, indeed; our hold upon the country so strong, that I cannot even imagine any train of events likely to place our power in serious jeopardy. But it will not be denied that there are evils, besides open and extensive insurrection, against which the rulers of a country, held by such a tenure as India, are bound in wisdom to provide; and Mr. Crawford ought to remember, when he speaks of the exemplary behaviour of the European settlers in Bengal, during the time past, that no inference can be drawn from that circumstance with respect to the propriety of imposing limitations upon the prerogative at present enjoyed by the Government, unless he can show that the well known existence of the power of deportation has in no degree tended to deter some of the number from an opposite course of conduct.

I believe that the law in question has, hitherto, produced no evils at all commensurate with those which it may be supposed to have suppressed; and I am still more firmly persuaded, that if British subjects be permitted to settle in India without limitation as to numbers, its maintenance will be absolutely necessary for the peace and well-being of the heterogeneous society which will be formed, and the protection of the quiet and well-disposed majority of both the races composing it. The violent reprobation of powers

which can only affect the turbulent and unruly, reminds one very strongly of the indignant sentiments expressed by some of the heroes of the Beggar's Opera. Indeed, the objections that are grounded upon abstract notions of liberty, without reference to the thousand circumstances that render the situation of a settler in India as opposite to that which he occupied in his native country as it is possible to fix moral antipodes, seem to me quite unworthy of notice. British India must remain, for many years to come, under a government as little directly responsible to its subjects as that which now subsists. To raise an imperium in imperio in the shape of a legislative or controlling body, composed of British Settlers alone, would be a measure equally preposterous and unjust; and no one, I suppose, will be found hardy enough to assert, that the natives are at present fit to perform those functions for themselves. A strong government is best suited to a people in the very infancy of civil knowledge; and those who voluntarily resort to a country so situated, cannot reasonably expect that the laws should be framed in exact unison with the feelings which they have imported from a land where the social system has arrived at comparative maturity. The British Settlers, however numerous, must form an extremely minute portion of the whole body, whose interests are to be consulted; and if the uncontrolled liberty of action which the few demand, be found incom-

patible with the well-being of the many, there can be no question that the minority, whatever their colour or birth-place, must succumb.

But this principle of equality in the eyes of the sovereign authority, is very imperfectly recognized even by those who indulge, at times, in such melting language, that they would seem, like Anacharsis Clootz, to be the orators of the human race. According to their views, all that is wanting toward the complete efficiency of the Police, or for the remedy of every defect in the administration of Civil justice, is to be supplied by the agency of the new Settlers; but they are ignorant or forgetful that the evils of which the more intelligent portion of our native subjects complain most loudly, and with the greatest justice, are the want of employment and of incentives to exertion, as involved in their exclusion from offices of trust and emolument. The wrongs of their own countrymen engage so much of their sympathy, that they have none to bestow upon those who ought, in common justice, to be at least as much regarded by the ruling power; and whom, if we have any sense of the obligations which our situation imposes on us, we are bound to lead up gradually to the capacity of governing themselves.

Mr. Crawford is of opinion, that, if the laws were better administered, the Hindoos would be fully able to maintain their rights against the British Colonists; and that even without the protection of the law, no European would be a

match for them with the weapons of fraud and chicanery; that there would, in short, "be more need to protect Europeans against them, than them against the Europeans."\*

Dr. Johnson has truly said, that human ingenuity has never yet devised a plan which has given the poor an equal chance of justice with the rich; and this aphorism will bear upon the present argument, if we erase the words "poor" and "rich," and substitute "ignorant" and "intelligent." I admit that it is possible to *conceive* a degree of perfection in the administration of justice which should give but one measure to all suitors; but while human institutions are upon their present level, it will but serve to equalize the balance, at the most, if, before we raise the scales, we give some advantage to that which is most likely to kick the beam.

I have too mean an opinion of the mere monkey cunning of uncivilized man, to believe that it will avail those who make use of it, from the want of any better protection, to defend themselves against the aggressions of unprincipled intelligence. At whatever period of history, in whatever quarter, the natives of Europe have come in collision with Asiatics, the latter have been the sufferers. The knowledge of the European has given him power, but it has not restrained him from abusing it. The "fraud and chicanery" of a rude state of society, must be sadly over-matched in a contest,

where the prudence, active energy, and foresight of an educated Englishman are arrayed against it. Mr. Robertson has observed,—and all who know the people will acknowledge the fidelity of the portrait,—that “there is a simplicity in the very perfidy of an Asiatic,” which places him entirely in the power of any one with patience sufficient to watch the progress of the web, and entangle him in his own snare. I am far from thinking that the natives of British India are peculiarly weak in intellect; but more cogent arguments than any which Mr. Crawford has advanced, will be necessary to persuade me that education and knowledge give no advantage to their possessor, or that their superiority deserts them when the perpetration of wrong is the object to which they are directed.\*

\* However much Mr. Crawford may endeavour to blink the question, by disserting upon the improvement that has taken place in our notions of liberty, it is a fact as incontrovertible as it is melancholy, that, wherever Europeans have settled themselves as colonists, the rightful possessors of the country have been wronged, plundered, and destroyed. Where are the Aborigines of the Cape of Good Hope? where the natives of the West Indies, of Mexico, and Peru? where, above all, (for there Englishmen are specially implicated,) are “the redmen” of North America? Mr. Crawford has given an extract from Mr. President Adams’s speech to Congress, in which, with very natural partiality, that Statesman praises the conduct of the Government of the United States towards the Indians, as contradistinguished from “the practices of European States,” before the war of separation. President may be fairly pitted against President: the following passages occur in General Jackson’s message, which has lately reached this

I firmly believe, that, at the present day, the administration of justice throughout the Presidency of Bengal is such as to ensure protection to the whole native population against any permanent encroachment on the part of English Colonists ; and, therefore, I should gladly hail the removal of the existing restrictions. But I think, that, if the present law had never been enacted, or had been repealed at an early period of our ascendancy in the East,—in the golden days of plunder and peculation,—a very considerable portion of the soil of British India, would, at this moment, be the property of residents in England, managing their estates in the East

country. “ Our ancestors found them the uncontrolled possessors of these vast regions. By persuasion and force, they have been made to retire from river to river, and from mountain to mountain, until some of the tribes have become extinct, and others left but remnants to preserve, for a while, their once terrible names.” “ *Professing a desire to civilize and settle them*, we have, at the same time, lost no opportunity to purchase their lands, and thrust them farther into the wilderness.” Even President Adams confesses that the Government of the United States purchased “ *all the land*” which they could prevail upon them to sell. What good bargains the poor savages must have driven with long-headed Yankees ! Mr. Crawford, in fact, has only a flimsy theory to set against the history of all time. Have Europeans got rid of their selfishness, and the “ *ardor habendi*,” along with their “ crude and imperfect notions of liberty ?” I trow not. If the colonists be not well looked after, their professions of a desire “ to civilize and settle” our Indian fellow-subjects, will resemble very much in practice the philanthropy of Brother Jonathan.

through their Agents, like Irish or West Indian absentees; and that this proprietorial right, in ninety-nine cases out of the hundred, would have been acquired, in the first instance, by the most iniquitous means. This may be thought extravagant; but, if old tales be true, or like the truth, those who found money so irresistible, would hardly have scrupled to appropriate land, if they had been permitted to hold it; or to wink, for a consideration, at its fraudulent or forcible occupation, by retainers and clients of inferior note and station.\* These dangers have passed away, with the times in which the scenes alluded to were acted; and our vilified laws would now, I think, be found sufficiently powerful to protect the weaker against any such serious and sys-

\* England may thank herself for much of the lax morality of her Indian sons at the period in question. There seems to have been little or no serious reprobation of the crimes of those functionaries who returned to Europe, laden with wealth, and “infamous for plundered Provinces.” Though the disgraceful means by which they had acquired their enormous fortunes were often well known, and must always have been more than suspected,—considering the vast discrepancy between those fortunes, and the aggregate of their acknowledged emoluments in the East,—they were received by society, sometimes with distinction, always with indifference, instead of being shunned as moral lepers. And the utmost retribution to which they were exposed from that public opinion, which ought to have acted as a stern and almost vindictive judge, was comprised in mere vapid jests levelled at Nabobs, and the squeezers of Rajas and Begums. Can we wonder that the work went merrily on under such encouragement?



tematic aggressions on the part of the stronger race, as the appropriation of landed property, without full value given and received, would imply.

It is not, therefore, to provide against *that* contingent evil, that I desire to see the power of banishment left, as an expedient of the last resort, to strengthen the hands of the Indian Government. I regard it as a preventive, not as a penal ordinance, likely to come into frequent operation. If you bring a strong-minded and strong-bodied race into immediate contact with a people, far inferior to them, both in mental and physical energy, the difference can only be made up by affording the executive enlarged means of dealing with those to whom nature and education have given the superiority. As we cannot suddenly raise the level of the one, and are far from desirous to lower the standard of the other class, we must give the looker-on such strength as may enable him to interfere effectively upon all occasions of collision. But, in India, especially in the Lower Provinces, where the Colonists would probably settle in the greatest numbers, the local executive is often weak: powerful enough, indeed, to cope with those whom it has to manage at present, but upon a scale far too limited, and necessarily employing instruments utterly ineffective, to act as a curb upon ill-disposed and turbulent British settlers. In the event of any riot or disturbance taking place, at

a distance from the station of the Magistrate of the District, much mischief might be done, many lives might be lost, and much ill blood generated, before the civil power could interfere at all; and even then its petty force might be set at defiance, and the representative of the Government in the eyes of the native population virtually deposed, until he could summon the nearest military force to his support. I might adduce many other cases, in which the weakness of the executive power in their immediate neighbourhood, would be likely to induce Englishmen, dealing with Asiatics, to take the law into their own hands, and to risk the consequences of a subsequent judicial enquiry.\* But I think that they would not feel equally disposed to brave, by any acts of great or repeated insubordination and violence, a Government vested with power to banish them from the country.

The question, after all, is one of opinion. I

\* It is well known, that, in the back settlements of the United States of America, where the power of the executive is little felt, a very wild species of justice obtains. Persons suspected of crime are seized at night, carried off into the woods, desperately flogged, and ordered to leave the place forthwith. If they neglect to obey that command, the ceremony is soon repeated, with additional violence, and the mutilation of nose, ears, &c. I think I have seen it stated, that a victim seldom survives a second visit from his self-constituted judges, jurors, and executioners. The whole system has some peculiar name which I forget. "Summary transmission" is nothing to this!

think that few or none are likely to be injured by the exercise of the discretionary prerogative; whilst its maintenance, in terrorem, will probably prevent frequent and serious mischief.

As Mr. Crawford eulogizes the lamented Bishop Heber, for his “good sense, and freedom from those local prejudices, so apt to bewilder the judgment of other Indian observers,” let us hear what he says on the subject before us. “But the power of deportation is, I am convinced, essential to the public peace. Many of the adventurers, who come hither from Europe, are the greatest profligates the sun ever saw; men, whom nothing but despotism can manage, and who, unless they were really under a despotic rule, would insult, beat, and plunder the natives, without shame or pity. Even now, many instances occur of insult and misconduct, for which the prospect of immediate embarkation for Europe, is the most effectual precaution or remedy.”\*

But, it may be asked, why would not the English laws, as administered in the Supreme Court, be found sufficient to restrain the violent, and protect the weak? Why seek to give the executive an arbitrary authority beyond those laws?

I answer, firstly, that no analogy can be drawn on the present occasion, from the manner in which the laws make themselves respected in England,

or within the narrow limits of Calcutta; and that the Supreme Court, as at present constituted, could never stretch its arm effectually to the remote Provinces of our vast Empire, without introducing greater evils than it professed to remedy. Secondly, that it is the Government, and not, in any respect, the Supreme Court, which is responsible for the protection and well-being of the native population of the Provinces, whom the Colonists would be likely to wrong or maltreat. And, thirdly, that the laws of England, with their thousand loop-holes for the triumphant escape of the guilty, are no more suited to meet the exigencies of the case, for many years, at least, after a relaxation of the existing rules affecting Colonization, than the wigs and ermine of Westminster Hall for the climate of the Tropics. It is rather too much to ask us to believe, that laws, which do not appear, if complaint be any criterion, to fit those for whom they were expressly made very satisfactorily, would accommodate themselves, with equal facility, to the wants and feelings of the Bengallee, and the native of Hindostan,—races as essentially distinct, in character and habits, as Greeks and Germans, Spaniards and Frenchmen.

I will only\* add, that, as Mr. Crawford places great reliance, with regard to the safety of Colonization, on the examples afforded us by the Romans, the Mahommedan masters of India and Greece, the Tartar conquerors of China, and the

conduct of Russia towards her new acquisitions, he ought not, in consistency, to deny the Government of British India the same means of disposing of troublesome intruders, from whatever country, which those powers severally enjoyed or enjoy. I am not so cruel as to desire, that the Governor General should be supplied with bow-strings, nor that a chief executioner, with a proper number of subordinates, should be added to his staff. But Mr. Crawford cannot fairly expect the East India Company to imitate the policy of Russia, whilst he refuses to place them in a similar situation; and we have yet to learn, that the Governors of the Crimca or Georgia are hampered by any “constitutional checks.” We may safely believe that those officers dispose of refractory Colonists in a manner at least as effectual as “summary transmission.”

This Essay has grown so much beneath my hands, that I cannot stop to point out how frequently I differ from Mr. Crawford, with regard both to his premises and deductions. The conclusion at which he arrives is common to us both, except that I think that he has overstated the benefits which India will derive from Colonization. Yet I estimate them very highly. I cannot say, that the dangers which he strives to invalidate ever presented themselves to me in a formidable light; and I think that Bishop Heber made a correct report of the sentiments entertained by the great majority of the present generation of

Anglo-Indians, in stating that he found little difference of opinion in Calcutta upon the subject.\* But, it is evident, from other passages, that he does not go along with Mr. Crawford in thinking, that all that is wanting to make India an El Dorado is the free admission of British Colonists and capital; and I must pause here, to offer a few brief remarks on Mr. Crawford's statements respecting the benefits and blessings which have already accrued from the partial settlement of Indigo Planters. ●

The passages to which I allude are as follows: "The introduction of the indigo culture into a district is notoriously the precursor of order, tranquillity, and satisfaction: wealth is diffused through it: and the public burthens, levied before with difficulty, and often only with the aid of a military force, are punctually discharged." P. 50. And again, "Those portions of our dominions in India, in which the greatest number of European settlers exist, are invariably found to be the most orderly, tranquil, wealthy, and prosperous." P. 61.

As far as the collection of the public revenue, by means of a military force is concerned, I can only say, that no such expedient has been resorted to in my time, nor, to the best of my belief, in any part of the Lower Provinces, since the date of the permanent Settlement. Neither

\* Journal. Vol. II. Page 309. Quarto Edition.

did I hear the measure talked of, during my service in the Western Provinces, as one that had ever been found necessary in that quarter. It is very difficult to prove a negative, when the subject of debate is not so important as to be a matter of historical record, but, perhaps, I have said enough to show, that the word "often," at least, is out of place in Mr. Crawford's period.

With respect to the other points, I think that I am safe in stating, that a very large proportion of the quarrels, affrays, and bloodshed, that take place in those Districts of Bengal Proper, where the indigo cultivation is extensive, may be traced, directly or indirectly, to the jealousy of neighbouring factories, or the intrusion of a new planter into a tract of country already fully occupied. Whenever the last-mentioned circumstance occurs,—and it is far from uncommon in those districts within a moderate distance of Calcutta,—the greatest exertions on the part of the Magistrates are always necessary, and often vain, to prevent the most aggravated breaches of the peace. Adventurers sometimes appear, at the commencement of the season of manufacture, when the plant is fit to cut, and tempt the poor Ryots, with high offers and ready money, to sell them the crops which have been long contracted, and, perhaps, paid for, by the resident Planters. Unless the Magistrate be both prompt and determined, the consequence is almost invariably an affray. Indeed, these practices had risen at one

time to such a pitch in the Eastern Districts of Bengal, that many of the Planters kept considerable bodies of retainers in pay, to cut and carry off the contested crop, or to fight, if necessary, for the possession of the field. These Bravos were generally imported from the Upper Provinces, not only on account of their superior strength and courage, but because they could not be so easily identified, in the event of their being concerned in a serious or fatal affray. So frequent were the pitched battles, that the natives found it convenient to save circumlocution by giving a name to the *system*, which is accordingly always spoken of in that quarter, as “Shelaukbazee,” or “the game of clubs.”

But Mr. Crawford, whose idiosyncrasy displays any thing rather than a want of acuteness, did not fail to foresee that his assertion would be met by a counter-statement to the above purport, and he, therefore, prepared a fender to deaden its effect. He alludes slightly to the battles-royal of the Indigo Planters, and adds, that “the whole of the disputes in question,—disputes commonly exaggerated,—have all had their origin in the restrictions imposed by the East India Company itself, or in laws which they are incapable of executing.” P. 51.

Now, I do not deny that quarrels and affrays would probably be more infrequent, if British subjects were placed upon the same footing with the natives of the country, in regard to the



purchase of land ; but it is monstrous, to call the laws the “ origin ” of crime, or, to suppose it possible, that, whenever such interlopers as I have described enter a District, the Magistrate should abandon all his other duties, for the purpose of deciding, field by field, to which party all the disputed crops of indigo severally appertain. The laws of India certainly no more create the eager rivalry of speculation which terminates in collision and hostility, than the laws of England create larceny ; though it may be true, that if laws were so comprehensive in their scope, and so certain in execution, as to preclude any chance of escape, offences against property, at least, would become very rare, or cease altogether. But, until this degree of perfection be somewhat nearer attained by the most enlightened nations of Europe, the East India Company may, in charity, be pardoned, for not having yet brought its plans for the suppression of crime to such a point of excellence, as to prevent a keen, active, and money-making body of men, from scrambling for gain, and quarrelling during the struggle.

As far as the Police may be implicated in Mr. Crawford’s charge, I shall presently, I hope, be able to show, that it cannot justly be charged with any want of efficiency.

But Mr. Crawford asserts that wherever the greatest number of European settlers exist, the country is most orderly, tranquil, wealthy, and prosperous. So far is this from being true with

regard to order and tranquillity, that Nuddea, Jessore, Rajeshahye, Dinagepore, and Burdwan, where Indigo Factories are most closely set, were in former days the very hotbeds of gang-robbery of the most atrocious description; and their calendars still present more cases of that dreadful species of crime, than those of any other five districts in British India. Unfortunately for Mr. Crawford's hypothesis, it happens, also, from some latent cause, that the natives of Tirhoot and Chuprah, the great Indigo Districts of the Central Provinces, are particularly addicted to burglary, as a reference to their gaol-deliveries will abundantly manifest. Be it remarked, that I am very far from attributing these circumstances to the residence of a large body of Planters in "those portions of our dominions," as if they, like the laws of the Honourable Company, were the "origin" of crime. But these evils prevail in despite of their presence, and tend sadly to qualify those blessings which the great champion of Colonization describes as following their footsteps as closely and certainly as their shadows.

I have used the word "Colonization" throughout these remarks, because it is familiar to every one who has attended to the late discussions of subjects connected with British India, and because I wished to avoid the imputation of quaintness. But it is, nevertheless, a term very inappropriate, for in spite of all the pains that Mr. Crawford has taken to collate instances, and to shew how well

Europeans thrive in the West Indies and South America, he never will be able to subvert stubborn facts, by a mere array of fanciful analogies, which cannot bear even the most superficial examination. Tropical Countries equidistant from the line may be as different in climate as England and Labrador, which lie under the same parallel of latitude. Java is much cooler than Madras or Calcutta, and there is no part of Southern India where the heat is so excessive as in the Persian Gulph, which is very considerably to the northward of Bombay. It may be added, that Denham or Clapperton found the water-bags frozen at day light, in the interior of Africa, within a few degrees of the Equator; and that Calcutta, Ava, and Canton, which are almost in the same latitude, are very far from having common climates. But if nature seem capricious in this respect, we have still less certain knowledge of the laws by which the comparative salubrity of situations is determined. We cannot tell why the Eastern coast of Africa should be more unhealthy than the opposite shore of South America; nor why the natives of Bengal should be a feeble and stunted race compared with the inhabitants of the coast of Malabar. In this respect, experimental knowledge is the only sound philosophy, and the mere aggregation of the names of places within the Tropics where Europeans have colonized, will avail us nothing. For the question is not whether the Creole population increased rapidly in Barbadoes, but whe-

ther the climate of India be congenial to European constitutions. We are not a whit farther advanced when we learn that the Spaniards of pure blood are very soon "acclimated" in South America, (which has the finest table-lands in the world, and where liver complaints are almost unknown,) because the climate of that continent, though it be tropical, may not be at all similar, as regards its effects on the human frame more particularly, to that against which the Colonists of British India would have to contend.

Hitherto, it must be admitted, no general attempts have been made to rear a Creole population in British India; but as it is in vain to look to other lands for information, let us make the most of the few facts that we possess, bearing directly on the point at issue.

Mr. Crawford states his view of the case thus. "But even in India, notwithstanding the care taken to prevent it, we find among the lower orders of Europeans a good many cases of genuine Creoles. These may be seen serving in the army, side by side, with their European comrades, and not distinguishable from them by any difference of strength, complexion, or courage."

There is no mention made of the number of these cases: "a good many" is a very indefinite expression. During my residence in India I never was personally acquainted with one genuine Creole, high or low, of mature age; but I have seen, and Mr. Crawford must have seen, hundreds of

Creole children, sickly and suffering, through the injudicious fondness of parents, unable to reconcile themselves to the sacrifice of parting with them. Who will cling closer than a mother to her infants? and yet not a ship sails for England but carries some who would never have been suffered to depart, if detention had not been certain death. These are events that happen every day, and they often occur where the parents only intend to remain a short time behind their offspring. Yet they dare not retain them, even for a year or two, because they know, that, in all human probability, their self-gratification would be purchased at the expense of their infants lives. It is notorious, too, that the great majority of children are sent to England long before any education is called for beyond that which a mother's lips are best able to impart, and that the preservation, or too frequently the restoration of their health, is the great object contemplated. Is Mr. Crawford's theory then,—founded as it is upon a few isolated instances of drummer-boys in European regiments,—gratuitous; or has every English parent been in error, from our earliest occupation of the country, upon a point which they have decided against the very grain of their natural affections? Did Mr. Crawford ever enquire what proportion the adults in question bore to the number of children born in the same regiment? I do not believe that one Creole child in ten would reach the age of twenty. What the survivors would be both in mind and

body, we need not pause to enquire, for every Anglo-Indian must know what sort of habits an early and unbroken intercourse with Natives is likely to generate. The most vindictive of men could not wish the child of his worst enemy a more dreadful fate than an Indian education.

But in what ratio do those Europeans who resort to India in early manhood, in full health and vigour, survive a residence of twenty years in that country? What sort of appearance do the Portuguese,—the descendants of the earliest European Settlers,—present at this day? And how far are the Mahommedans of Bengal Proper upon a physical equality with those of the same race who stopped short in Hindostan; or the latter, again, equally robust with the descendants of common ancestors,—the homebred natives of Caubul and Affghanistan? When Mr. Crawford has answered these questions, and explained away the facts, with regard to the children of English parents, referred to in the foregoing paragraph, in a manner at all consistent with his views of “Colonization,” it may be necessary to go somewhat deeper into the subject.

But until these difficulties 'be got rid of, and until it be explained why British Settlers, under a more liberal system, should be less subject to Nostalgia than the Merchants, Agents, and Indigo Planters of the present day, or the Officers of the Government, I cannot admit the propriety of using the term “Colonization” to imply the

free resort of English men and capital to India. I believe, with Mr. Robertson, that, as regards our tenure of that country, there are physical limits which we shall in vain attempt to pass. Mr. Crawford even is compelled to acknowledge, in one place, that “the colonization of India is impracticable;”<sup>\*</sup> but this momentary admission has no effect upon the general tenor of his arguments, for the very next page is devoted to the endeavour to prove the congeniality of Tropical climates to the European constitution. Englishmen may settle in India; they may bring with them capital, information, and energy, calculated to improve every branch of its Commerce, Manufactures, and Agriculture; they may enrich at once themselves, their native country, and the land in which they have taken up their residence; and beyond even these benefits, they may co-operate, to a considerable extent, in the diffusion of education and moral intelligence among the native population:—but there the connexion,—there their services will terminate. Very few will voluntarily lay their bones in a land that is not theirs; still fewer will have sufficient sternness of purpose to support them through the heart-breaking experiment of rearing their children in such a climate. If the children be sent in infancy to England, they will be bound to the country of their birth by no stronger ties than the original emigrants. Of the

few that may arrive at maturity in India, without an intermediate European education, nine tenths will no more resemble Englishmen in character, feelings, and principles, than the D'Souzas and D'Sylvas of the present day the compatriots of the great Albuquerque. They will be as degenerate in body as the wretched little oak which Bishop Heber remarked in the Botanical Garden near Calcutta; and, like the great majority of the old Spaniards in South America, whilst they retain nothing of the morals, manners, and attachments of the stock from which they sprung, they will superadd to the pride and insolence of European descent, all the slothful and vicious habits of the people amongst whom they have been brought up. I ask any Anglo-Indian, I ask Mr. Crawford himself, what he thinks would be the degree of virtue possessed by ninety-nine females out of a hundred nursed and educated in India, in the families of men engaged in laborious or active employments, without even the protection of orphan schools or asylums? They would, doubtless, be worthy Mothers of the Gracchi! I am as warm a friend as Mr. Crawford to the free introduction of British capital and enterprise into India, and it is simply because I am so disposed, that I make these humble attempts to obviate the misconceptions which that Gentleman's Utopian visions of the future destinies of India are so well calculated to generate. I believe that the English Settlers will do much for the country; I believe



that their enlightened industry will improve the old, and open up new sources of wealth ; and that within thirty years from the removal of the present restrictions, India will be found to have benefitted vastly by their residence, as regards her powers of production and consumption, and the general comfort of the people.\* I will go even further, and express a hope, almost amounting to conviction, that the moral character and habits of the Native population will be improved by such an infusion as I contemplate. For though I know that there must be some,—perhaps many,—among the new Settlers, who will do more harm than good in this respect, and who, to paraphrase Bishop Heber's language, will only be restrained from plundering and preying upon the weaker race by the strong hand of a Government comparatively despotic ;—yet I have too high an opinion of my countrymen, and too exalted notions of the religion which we profess,—however imperfectly we obey its precepts,—not to feel persuaded, that, of the effects of example, the beneficial will greatly preponderate. There may not be many who will enjoy both leisure and inclination for personal exertion in the great field of education,

\* England, of course, will participate in these advantages in proportion to the extent of the power of consumption that may be called into being. Moreover, she will be enriched to the amount of all money remitted home, for whatever private purposes, in excess of the sums so devoted at present, and of the fortunes which individuals may return to spend in their native country.

but I think that the tacit influence of the truthfulness and upright dealings, even of those who make no such direct efforts, will not be inconsiderable. This, however, is a subject involving problems of great difficulty, and I should not have touched upon it at all, if I had not been desirous to shew that I anticipate very extensive and happy results from a free admission of British subjects into India. But "Colonization," strictly speaking, I regard as visionary, and there are many drawbacks even on the more limited and feasible scheme, which Mr. Crawford has either kept out of sight, or has stated in an exaggerated and burlesque form, for the pleasure of destroying the giants of his own creation. But, with him, as the Company and its functionaries can do no good, so "Colonization" can do no harm. All is *coulour de rose* on one side of the picture: all as dark as Erebus on the other.\*

Before we proceed to enquire how far the Government of India by the East India Company has been represented according to its real merits, with respect to the suppression of violence and crime, the protection of property, and the admi-

\* I have stated my views on the subject of free Settlement in India, sometimes as if the restrictions were already withdrawn, or would certainly be removed. I did this, partly for the sake of facility, partly that I might meet the question fairly. What the decision of the Legislature may be, time alone will shew: I possess no data for forming even a conjecture.

nistration of Civil Justice; I beg to be indulged in a few observations on some of the peculiar difficulties which have retarded or prevented improvement in those branches of administration, and which, I think, have not been allowed their fair weight even by the most candid of those who have examined the subject.

It is obviously impossible to appreciate properly the execution of moral task-work, unless the nature of the subject matter, and of the instruments at command, be carefully considered. If, in the physical operations from which I have taken my illustration, many circumstances of soil, weather, and tools, must enter into a just calculation of the degree of the labourer's exertion; still greater errors will assuredly be committed, in estimating the progress of the legislator and practical reformer, if the point from which they started be not well ascertained, and the power of the machinery employed, compared with the resistance experienced.

It behoves us, then, to enquire, in the first place, how the people of Bengal were situated, at the time when Lord Cornwallis introduced the present judicial system. What had been their condition; what was their tendency to crime; what reliance might be placed upon the influence of the moral ordinances of their religion, in co-operation with the efforts which the Lawgiver and Magistrate were making for the general welfare; to what extent did public spirit exist; and

how far might the administration of justice be entrusted to the people themselves?

The whole people, high and low, rich and poor, had been enslaved for centuries: equally the bondsmen of their despotic conquerors, and of a religious system, strong beyond all others in the power of depressing the mental energies, and compelling each link in the mighty chain, to occupy the place assigned to it, without hope of any possible change for the better.

Hence, they had all the vices of slaves, super-added to the thousand evil habits induced by a bloody, cruel, and impure religion, which was so far from inculcating philanthropy, that it expressly excluded the very notion of such comprehensive good-will, by dividing the whole community into Castes. Human sacrifices, in different forms,—some voluntary, some murderous,—legal punishments, the most sanguinary and barbarous,—and crimes, committed with every possible aggravation of cruelty and torture,—attest how well superstition had done its work. Under the tyranny of their temporal rulers, perjury, treachery, and mutual distrust, had risen fully to a level with those vices, which sprung from the deeper and more polluted source. Of the Hindoo religion, indeed, it is difficult to speak in measured language, for it seems to be the worst that the perverse ingenuity of man ever devised for the universal misery and depravation of its votaries. Moral precepts it has, but these are

not only unknown to a vast majority of the people, but are wrapped up from the understanding even of the educated among the sacred class, in such a farrago of rites, penances, and observances, that it must be difficult, even for the initiated, to tell, whether it be more sinful to murder a fellow-creature, provided he be of a degraded Caste, than to come in contact with him by accident, or more meritorious to feed the hungry and clothe the naked, than to stand on one leg, or sleep on a bed of spikes, for a given number of years.

In such a faith as this, it may readily be supposed that there was little or nothing to deter even the best informed from crime : the ignorant were left, of course, to their passions and appetites ; and these, too, inflamed, as I have said, by the impurity of their religious ceremonies, whilst they were taught nothing which could lead any individual to perceive that his own happiness, and that of the community at large, were, in any respect, identical. The feeling, which we call public spirit, and which is based upon an enlarged and intelligent selfishness,—upon an habitual conviction, that “ true self-love and social are the same,”—had no existence whatever. Veracity, the great bond of society, was a virtue almost unknown, and corruption, peculation, and extortion, were common alike to the highest and humblest individuals, to whom lucky accident might give the power of preying upon their brethren. He, who was uppermost, did but what

he knew his victim would do to him, if their relative situations were inverted; the Zemindar wrung and tortured the Ryot, the Ryot defrauded the Zemindar; the Aumil, or native Collector, plundered them both.\* The whole frame of society was disorganized; indeed, the combination of ideas, which we express by the term society, had no corresponding subsistence. Every man's heart and hand were against his neighbour, if not in open violence,—a privilege which the Ruling Power often reserved to itself,—in all the thousand relations of public and private life, in fraud and false witness, in exaction and active cruelty, in apathetic indifference to pain and suffering. Those who have seen only the least favoured countries of Christendom, or whose notions of Heathens are derived merely from the Poets and Historians of Greece and Rome,—(bad as the degenerate Romans were,—) and the statements of travellers with regard to the aborigines of America, can form no adequate conception of the abyss of wickedness and misery into which the inhabitants of the Bengal Provinces were plunged.

Volumes of proof might be produced, that this

\* To such an extent was this carried, and so completely was the system interwoven with the habits of the people, that, as I was informed by the Magistrate of Nuddea, the word "tehsel" meaning, literally, the collection of revenue, is in common use in that District, and probably elsewhere, to signify violence or oppression.

picture, however dreadful the colours, is not overcharged. I waive the authority of Mr. Ward, because it has been stated, though with but small candour, that his views have been distorted by his religious opinions; but the legal and religious works of the Hindoos themselves,—containing passage upon passage utterly untranslatable, and providing against crimes almost inconceivably abominable,—the reports of public functionaries,—where the sole object has been the information of Government, and not the maintenance of a system,—and the admissions of the most unprejudiced writers,—abundantly bear me out. “In India,” says Mr. Mill, “there is no moral character;” and, in that brief sentence, the Author, who, with every advantage of great talents, and a mind peculiarly analytical, has studied the subject more deeply and generally than any man of our own or former times, condenses matter which might be spread out into folios. Let those who question the soundness of the dictum, refer to Mr. Mill’s *Essays on the Laws, Manners, and Religion of the Hindoos*, in the first volume of his *History*; or, if they impeach his judgment and discrimination, let them trace his statements to their source in the quarters which I have indicated. They will soon find enough of filth and vice to disgust them with the pursuit.

But, as Lord Cornwallis and the Officers subordinate to him, could not give a moral character to the people whom they were called upon to

govern,—could not suddenly eradicate their vices, and plant virtues in their stead,—they were obliged to stem the torrent as they best could. Let those who know from sad experience the labour of controlling a single vicious boy, estimate the difficulty of their task. They could not allow the country to fall into a state of absolute anarchy; they were obliged to *endeavour* to administer Civil and Criminal Justice. But, whatever was done, they were compelled to do for themselves. They could not expect, and they certainly did not receive, any assistance from the people, beyond their services in ministerial situations of the most subordinate description. And they were constrained to employ them in this manner, under the fullest moral conviction, that upon the slightest relaxation of the vigilance of superintendence, their official authority and influence would be prostituted to purposes of corruption and plunder. “In employing the natives of India,” says Mr. Mill, “the Government can never reckon upon good conduct, except when it has made provision for the immediate detection and punishment of the offender.” Hence, half the thoughts of the Ruling Power, and more than half the time of those functionaries upon whom the immediate administration of justice devolved, were necessarily devoted to the several tasks of providing against and obviating abuses, watching the Native Officers, and punishing their offences. But the vacant situation of an Officer, convicted of



mal-practices, could only be filled up by another person of the same class and character; so that it was often questionable, whether it would not be prudent to adopt the shrewd policy of Tiberius, and leave the community to the mercy of the blood-sucker, who had already enjoyed a full meal, rather than to admit a hungry one to the feast. But, beyond these instances of official misconduct, the people were lamentably untrue to themselves. False accusations, involving the most atrocious crimes, were common to a degree almost incredible,\* whilst those really guilty of gross offences found no difficulty, but that of poverty, in procuring any number of witnesses to support an alibi. Indeed, perjury was as marketable a commodity as rice or cotton cloth, whilst, at the same time, the life of a human being was never balanced against a few rupees. Witness children murdered for the petty value of their personal ornaments, and innocent men's

\* In 1802, the Circuit Judge of the Patna Division stated, that, "of the murders charged only a few, and of the robberies no more than one, really happened. The rest are merely fictitious crimes, brought forward to harrass an opposing litigant, or revenge a quarrel. The Criminal Court is the weapon of revenge, to which the natives of this Province resort, on all occasions. Men of the first rank in society feel no compunction at mutually accusing each other of the most heinous offences, and supporting the accusation with the most barefaced perjuries. Nor does the detection of their falsehood create a blush."—Mill. Vol. V. p. 472-3. quoting 5th Report.

lives deliberately sworn away by Police Officers, for the sake of a character for activity. But I must refer my readers again to ampler pages than mine.

I have spoken of these evils in the past tense, as existing at the time when the present Judicial system was introduced. I do not mean to imply that they do not survive to this day. They do; though, in some respects, they are greatly modified; and these are the circumstances which I wish my reader to take along with him, whilst employed in estimating the merits of Anglo-Indian men and measures, in the administration of Civil and Criminal Justice. They will be liable to great errors, if they do not keep the difficulties of situation constantly in view; if they do not make ample allowance for the labour and uncertainty, (and, consequently, often useless toil, involving the necessity of return and recommencement,) of giving even a tolerable Government to men, who not only cannot do any thing for themselves, but whose individual vices are constantly counteracting the exertion of their Rulers for the general good. The member of such a society as I have described, sees, or thinks he sees, more advantage in pursuing his own interests, at whatever expense to others, than in co-operating with the Government for the good of the whole community, by the general suppression of crime and wrong. What can be expected from such men as instruments? Let Burke answer:—"I never

knew a man that was bad, fit for service that was good: \* \* \* the accomplishment of any thing good is a physical impossibility for such a man. There is decrepitude as well as distortion; he could not if he would, is not more certain than that he would not if he could.”\*

With a very limited number of English functionaries, whose services can be devoted to the administration of Justice, and the superintendence of such Officers of Police and Judges of inferior jurisdiction, as may be selected from the Native community, the Government of Bengal has struggled on to the present day:—with what success remains to be shewn. The narrow limits of a Pamphlet forbid me to describe many of the obstacles with which they have had to contend,—obstacles, which render it, in Mr. Mill’s impartial judgment, a far more difficult process than it is in England, to afford, in any tolerable degree, the protection of the law to the people of India;† and I hasten to lay before my readers such brief statements, as may enable them to judge how far their fellow-countrymen, employed by the Company in the local management of that por-

\* “ Such is the extreme difficulty of distributing Justice to a people, without the aid of the people themselves. Such, at the same time, is the utter impracticability, under the present education, circumstances, and character, of the people of India, of deriving from them the aid which is required.”—Mill. Vol. V., page 503.

† Vol. V., page 490.

tion of British India, which is commonly known as Bengal, have been resting on their oars for the last twenty-five years, "letting the world slide," or labouring with success for the suppression of crime, the protection of property, and the general benefit of the native population. I go no further back, because, as Mr. Robertson has justly stated, it was not until about the year 1807, "that the internal state of the Country began to take its due place in the deliberations of Government." Yet it has generally suited those who have professed to inform the English Public of the state of Crime in their Eastern Empire, to revel in the details of the 5th Report, often without the slightest explanation that they are merely referring to records of times which have long gone by: What would they think of an author, who founded his statements, with regard to the Police of London, on the doings of Jonathan Wilde and the trading Justices, the Newgate attornies of Fielding's vivid picture,\* or the Riots of 1780. Twenty-five years are more eventful and prolific in a country under a new form of Government, than a century of general adherence to an established order of things, as a child grows more during the ten first years of its life, than during the remainder of an octogenarian existence.

The following Table will shew what progress

\* In Amelia.

has been made towards the suppression of the more heinous crimes in the Lower Provinces, including the Jurisdiction of the Calcutta, Dacca, Moorshedabad, and Patna Courts of Circuit.

	Total Gang Rob- beries.	Total Wilful Murders	Total violent Affrays with loss of Life.	Grand Total.
Average of each Year, from } 1803 to 1807, inclusive.. }	1481	406	482	2369
Ditto of ditto, from 1808 to } 1812, inclusive .....	927	326	204	1457
Ditto of ditto, from 1813, to } 1817, inclusive .....	339	188	98	625
Ditto of ditto, from 1818 to } 1822, inclusive .....	234	123	30	387
Ditto of ditto, from 1823 to } 1825, inclusive .....	186	—	—	—*

It is well known that the District of Nuddea, or Kishennuggur, was particularly subject to the scourge of gang robberies, which are still, perhaps, more common there than in any other District. How far the well-disposed inhabitants have been relieved from those inflictions, may be gathered from the annexed Statement.

\* This statement is almost the same as that given in Mr. Robertson's Pamphlet, page 29. We derive our information from a common source.

## GANG ROBBERIES IN ZILLAH NUDDEA.

Years.	Number of Decoits.	Number of Persons confined for Security, under Orders of the Superior Court.	Do. under Orders of the Magistrate.	Remarks.
1803	162	No Records in the Superintendent of Police's Office, down to 1813.	Do. do.	The number of Persons in Confinement, is stated to have been much larger from 1808 to 1812, than in 1813; yet those of the latter Year amount to
1804	130			
1805	162			
1806	273			
1807	154			
1808	329	•		..... 1148
1809	65			
1810	14			
1811	22			
1812	6			
1813	4	.... 362 ....	786	The encrease beginning with the Year 1818, is easily accounted for, by a reference to the discharge of the bad characters confined till they should give Security; yet the crime was again suppressed, without recurrence to that system.
1814	—	.... 309 ....	491	
1815	3	.... 272 ....	402	
1816	2	.... 251 ....	363	
1817	4	.... 236 ....	324	
1818	7	.... 458 • ....	14	
1819	23	.... 174 ....	22	
1820	28	.... 124 ....	12	
1821	11	.... 86 ....	3	
1822	12	.... 35 ....	15	
1823	11			
1824	10			

*The subjoined STATEMENT refers to the WESTERN PROVINCES, or the*

*DIVISIONS of BENARES and BAREILLY.*

	1813	1814	1815	1816	1817	1818	1819	1820	1821	1822	1823	1824	1825
Gang Robbery, and Murder.	40	24	45	22	18	8	18	10	14	20	12	19	11
Ditto, and Wounding.	96	47	53	51	30	21	26	16	10	17	19	22	22
Simple Gang Robbery.	45	23	32	22	27	14	26	20	15	16	22	28	18
Highway Robbery, by Horsemen.	56	42	61	28	29	12							
Ditto, by Footpads.	685	460	395	401	384	354							
Highway Robbery, and other predatory Offences, attended with Murder.							77	105	89	65	101	97	95
Ditto, ditto, with Wounding.							320	306	278	177	211	211	267
Murder by Thugs.	49	74	68	68	22	10	10	18	9	27	21	18	19
Violent Affrays, attended with loss of Life.	190	204	134	100	99	182	57	82	97	82	52	79	42
Wilful Murder, and Homicide.							271	216	248	199	232	214	194
	1111					601	805						668

This Table being compiled from two separate accounts, the one extending from 1813 to 1818 inclusive, and the second from 1819 to 1825,—and the forms not being exactly similar, I have been obliged to divide the Highway robberies into four columns, and there is no mention of wilful murder and homicide in the first statement. For the sake of perspicuity, I have shown the sum total of the first and last years of each series.

Now, it is readily allowed, that the exertions of the Officers of Police have not been so eminently successful in the Upper Provinces, as in Bengal and Behar; but still, I think, that candour will admit that no inconsiderable progress has been made in the suppression of crime. The causes which have operated most powerfully to baffle the efforts of the local government in this quarter, may be easily explained. The districts composing the Benares and Bareilly divisions, are very much exposed to predatory incursions from independent States, against which even the strongest military cordon would be but an ineffectual protection. No less than twelve, I think, of our districts have a common border with the dominions of the King of Oude, where our Magistrates have no concurrent jurisdiction; and those portions of the Company's territories, which are situated on the right bank of the Jumna and Ganges, lie open, on their western flank, to some of the wildest and most lawless tribes of the Peninsula. But Oude has always been the especial “*officina*” of gang robbers



and highwaymen; and whilst the not unnatural jealousy of that Government resents or suspects all interference in matters of police as a preparatory step to the assumption of sovereign authority, it is manifestly impossible that our Magistrates should be able to guard a frontier of such extent, or prevent many crimes from being committed with impunity. Oude, as well as some of the Principalities of Central India, contains associations of men, who are robbers and murderers by profession and descent.\* These persons, who are generally of the most degraded Castes, abstain, like some other ferocious animals, from seeking their prey near home, and make periodical incursions into our Provinces for purposes of plunder, not only because they scruple to risk the tacit protection which they enjoy, by committing any atrocities in the immediate neighbourhood of their fastnesses, but because the superior wealth of our Native subjects, and the constant transfer of treasure from place to place, on account of mercantile transactions, hold out great temptations. To what a height the system has been carried, may be estimated from the fact, that, in the latter end of 1820, a gang of these marauders, consisting of

\* A Thug, or Highway Murderer, who was tried in some part of our territories on the Nerbudda for the exercise of his dreadful trade, gave the following account of himself, without any apparent self-condemnation. He was asked who he was; "Who am I?" he replied, "Why I am a Thug of the royal records: I and my fathers have been Thugs for twenty generations!"

163 persons, were apprehended, and brought to trial and punishment. They had enjoyed no opportunity of plunder on their then incursion; but, on a former occasion, in February of the same year, they had robbed a boat upon the Ganges of 25,000 Spanish Dollars, and 2,600 Rupees, murdered one of the persons in charge, and wounded ten others. Immediately after committing this outrage, they commenced a rapid retreat to their native wilds, which they reached in safety. But the officer who was specially deputed by the Government to enquire into the circumstances of the case, succeeded in tracing them to the frontiers of Oude. Their retreat in the interior of that kingdom was subsequently discovered; and the Magistrate of Juanpore took such measures as enabled him to obtain early and accurate information of their further movements. He no sooner learned that they were again setting forth, than he placed himself in communication with the Magistrates of all the neighbouring districts; and arrangements were made with so much skill and secrecy, that the whole gang was seized without the sacrifice of a single life, although the marauders were armed and desperate men. Mr. Crawford will find the trial at page 125 of the second volume of Mr. Macnaghten's Criminal Reports; and if he read it attentively, he may, perhaps, find reason to modify his remarks upon the state of Police, "beyond the limited jurisdiction of the King's Courts."—Page 52.

It seems worthy of mention, that the leader of the gang in question assumed the character and state of a Rajah or Zemindar upon a pilgrimage; that there were thirty-one women attached to the party, together with a train of covered litters, for the sake, it may be supposed, of transporting the booty, under the protection of Asiatic prejudices with regard to female seclusion; and that, on their first mentioned foray, they had approached within thirty miles of Calcutta. From that point they had dispatched some of their numbers to ascertain from the servants of the native Bankers, (with some of whom they were in collusion,) at what time, and under what circumstances, treasure would be forwarded to the Upper Provinces; and, having received this intelligence, had followed the boat for three hundred miles until a favourable opportunity presented itself. Their seizure and conviction broke up a very formidable Banditti, but Oude is still the “nursing mother” of robbers equally bold, ingenious, and bloody; and all hopes of their complete eradication must be abandoned, until they can be pursued to their retreats in the jungles of that kingdom, and deprived of that encouragement and protection, which, it is to be feared, they are now able to purchase at the expense of part of their spoil.

But there are circumstances beyond these which must be taken into consideration, before a fair estimate can be formed of the administration of Criminal Justice in the Upper Provinces, with re-

spect to the division of Bareilly in particular. The inhabitants of the districts which are attached to that jurisdiction, have been but a short time, comparatively speaking, under the British rule. No man, who had arrived at manhood when we acquired our dominions in that quarter, remembered any law but that of the strong hand. A long period of anarchy had rendered their habits of plunder and violence inveterate; the whole male population was armed, and blood was shed on the slightest provocation; and there was a large class of haughty Mahomedans, to whom the strict discipline of our regular troops was intolerable, who could not all find service in our irregular cavalry, but who would neither want nor work.

Disorders so deeply seated, did not, of course, admit of immediate cure. The mere change of rulers could not at once induce the people to beat their swords into ploughshares; indeed, it may be supposed that the generation which had grown up to maturity before we obtained possession of Hindostan, Rohilcund, and the territory to the west of the Jumna, was too much habituated to license ever to become reconciled to a system which claimed, and in a great measure enforced, unqualified submission to the laws. They had been bred, as it were, in the midst of bloodshed, tumults, and political changes, and being necessarily ignorant of the extent of our resources, as compared with those of any power with which collision was possible, they did not know how

soon a reverse in our fortunes might enable them to resume their former habits of life.\* Men acting under the influence of such feelings, and being besides, if Mahomedans, violently prejudiced against us, both as Christians, and as those who had subjected the descendants of the conquerors of Hindostan, could not be expected to manifest any particular reverence for our authority. Many of the tribes, too, in that quarter, are characterized by peculiar ferocity and recklessness; they are prodigal of life, but impatient of all controul to a degree, of which those who have never seen men in such a state of society, cannot easily form a conception.† The task of bridling a population

\* Bishop Heber mentions, that when the inhabitants of the town of Bareilly were consulted to what purpose of local improvement the duties should be applied, which had been appropriated by Government to objects of that nature, they requested that walls might be built to keep out the Mahrattas, as though they had not visited them for some years, they did not know that they might not come again some day.

† When Almorah was about to be attacked, during the Nepaul war, Major Hearsay, an old Mahratta Officer, was encouraged by the Government to raise a body of Volunteers from the Pitans or Affghans of Rohilcund, in support of the regular troops, who were weak in that quarter. They behaved so well during the operations which ensued, that it was determined to bestow a gratuity on each Volunteer; and when they requested their dismissal, they were told that the money had been sent for, and that it would be ready for distribution at a certain time. With some reluctance, they consented to remain. After the expiration of the period fixed, they again desired to

containing a very considerable admixture of such refractory elements, has necessarily been extremely difficult; but the old leaven is rapidly exhausting itself, as time moves on; and a reference to the Table given above, will show that some ground has been gained of late years, especially with regard to the suppression of violent affrays, for which the Natives of our own Provinces, and not marauders from Oude, or other quarters, must be held answerable. I believe, too, that highway robberies by horsemen are now almost entirely unknown, though I am not in possession of any positive statement, of a later date than 1818.

I subjoin an extract from a Minute recorded by Lord Hastings, on the 2nd of October, 1815. His sentiments ought, perhaps, to be allowed at least equal weight with the opinions of Mr. Crawford, respecting the utter inefficiency of the Company's Police, even when they are backed by the letter of "a King's Chief Justice in Bengal," who had, probably, never been more than twenty miles from his own Court House, and was equally well acquainted with the administration of Criminal Justice in Benares and Pekin.

"As far, therefore, as it was desirable to destroy

be permitted to return to the plains, but were told that information had been received that the treasure was already on its way. They replied, that they would not stay in a country where there were neither women nor tobacco; and departed accordingly, without waiting for their reward.

the spirit of violence which subsisted, so far has the Thanadary system of Police been productive of essential benefit to the country ; and from what I have yet observed, this object has been effected with as little harshness or injury to the community as was possible. Its efficiency, however, has been found to extend beyond the immediate enforcement of the authority of Government. It is fully equal to the effectual performance of all duties of police which follow the actual perpetration of a crime. In its investigation, and in the apprehension of the offenders, it must be acknowledged, where the Magistrates control is able and active, to fall very little short of the best organized system of Europe. To whatever duties indeed a stipendiary Police has, in any country, been found equal, it may safely be asserted that the Thanadary system will not have failed in their performance. Its Officers have every incitement to activity which exists in similar establishments elsewhere, while the checks against supineness are perhaps superior ; the same exclusive notions of profession prevail among them, and they have all the most thorough conviction, that their continuance in office and means of livelihood, depend upon the satisfaction they may give to their superiors in the discharge of the duties entrusted to them."

" As far, indeed, as my observation has yet gone, I have seen reason to be perfectly satisfied with the efficiency of the Thanadary system in itself."

These passages prove that no trouble has been

spared to render the Native Agents of Police as effective as possible, and that those exertions have been successful to a very great degree, notwithstanding the obstacles opposed to the scheme by the utter demoralization of the Society from which those instruments were, of necessity, selected. A few lines taken from the same Minute will suffice to show how completely the Government has been thrown upon its own resources; and, at the same time, explain the cause why crime has not been suppressed to a still farther extent.

“ But it may safely be asserted that no Government ever did or ever can defray the whole expense of a preventive Police to this extent; much gratuitous aid, direct and indirect, is afforded in every country. A preventive Police must depend not only on the skill and vigilance, as well as promptitude, with which the stipendiary force of the state is directed, but also on the energy of individuals in their respective stations of life. The hired arm of the Police must necessarily be limited both in its extent and effect. Its principal support must come from society itself; *and the opportunity should not be missed of observing that hitherto in this country it has had no such aid.*”

In confirmation of this sentiment, it may be noticed that the Panchaets or Committees to which the apportionment and application of the sums necessary to be raised for the maintenance of a subsidiary Police in the cities and larger towns have been intrusted, have almost invariably “ failed to



show that public spirit, that good faith towards their fellow citizens, and that regard to the interests of the community which we had hoped to find.”\* Yet great care has generally been taken to select the most respectable inhabitants to assess and manage the fund. When men are grossly untrue to their trust in matters so extremely petty, what part can they be reasonably expected to take in the general administration of affairs? It may be asked, too, to what extent this supineness and want of principle may, in candour, be allowed to aggravate the difficulty of dispensing justice to a people, too ignorant to extend their views beyond the narrowest and most callacious selfishness, and too deeply imbued with mutual and well-founded distrust, to combine with effect for the attainment even of the most palpable common good?

The habits of suspicion generated by the general want of principle, operate, in an especial manner, to shackle the hands of the Government in the dispensation of Civil Justice. It is not only more difficult to guard against corruption in Judges, than on the part of mere instruments of Police, but it is obvious that the ruling power can

\* General Letter, Judicial Department, 22d February, 1827. Paragraph 165.

“ The Members of the Panchaet have, in too many instances, endeavoured to exempt their connections and friends, and the richer classes of the inhabitants, from paying any share of the assessment, and have otherwise neglected or abused the trust reposed in them.” Ibid. Paragraph 166.

do but little, by any direct efforts, to induce its subjects to regard with confidence judicial awards pronounced by their own brethren. It is as impracticable to *force* a feeling of this nature, as to build a tree; it must be the silent production of time and experience: at the same time, it is most unfair to charge upon the Governors of India a state of things induced by the vicious habits of their subjects. Official integrity would not spring into existence at their mere summons; still less could they prevail upon the people at large to believe in the reality of such an Avatar. Hence it arises, that, with means, as far as the services of English functionaries are concerned, confessedly inadequate to meet the growing demands of the community, it has been found impossible to entrust any judicial authority to Natives, except under checks and limitations so jealous, and demanding such constant attention on the part of the European Officers of superior jurisdiction, as to neutralize many of the benefits, which, under more favourable circumstances, would assuredly flow from the employment of a larger body of Agents in this branch of administration. Throughout the Provinces under the immediate authority of the Supreme Government, the people appear to place no trust whatever, except in cases of caste, custom, or local usage, in arbitration by Panchaet, so highly spoken of as an engine of justice in other parts of the Peninsula.\* Even

\* “ The principal Assistants are in the habit of submitting

under the Presidency of Bombay, the system is said to be falling rapidly into disuse, owing to the preferential resort of litigants to the Courts where English Judges preside. Meanwhile, the business of our Civil Courts is rapidly increasing ; but the Government is anxiously labouring to make its institutions keep pace with the wants of the people. In whatever quarters the pressure has been found most heavy, an officer has been appointed to the separate charge of the Magistracy, leaving the Judge at liberty to devote his exclusive attention to the Civil File. The agency of Natives has been employed to a greater extent, —their powers have been recently enlarged, and their salaries increased. Further means are contemplated, or are at this moment in actual operation, for giving greater efficacy to this branch of the system, by adding still further to the numbers of the Native Judges, and remunerating their services more highly. Justice will thus be brought nearer to every man's door, whilst the increase of salary will not only render the situations in question objects of desire to men of respectability,

boundary and other disputes to the arbitration of a certain number of persons usually named by the litigants ; but it seldom happens that by such means disputes are permanently adjusted, *partly from the want of confidence which one Native has in the discernment and just motives of another, and partly because they generally place greater reliance on the justice of the European Officers.*" Extract from a Report of the Board of Commissioners in the Western Provinces. Authorities to this purport might be multiplied to any extent.

but will act, to a considerable extent, as a check upon corruption; for even those who may be entirely devoid of principle, will not hazard rashly, or for every petty consideration, an office of adequate and regular emolument. Character and consideration they must earn for themselves, for those are gifts which no power can bestow, except as far as the dignity of office may be supposed to be affected by the manner in which the services of functionaries are remunerated.

*Memorandum of the total number of Regular Civil Suits, whether Original, or in Appeal, depending in all the Courts of the Western and Lower Provinces, from the year 1815 to 1826, inclusive.*

#### SUITS DEPENDING ON THE

1st Jan. 1815.	Ditto, 1816.	Ditto, 1817.	Ditto, 1818.	Ditto, 1819.	Ditto, 1820.
134,869	117,126	92,490	79,037	81,206	90,759
1st Jan. 1821.	Ditto. 1822.	Ditto, 1823.	Ditto, 1824.	Ditto. 1825.	Ditto, 1826.
103,393	103,876	112,226	116,866	123,650	131,440

From the above Statement, it appears that the number of Suits depending, decreased “seriatim” from 1815 to 1818, and then rose again, progressively, until it had reached almost the same height in 1826, at which it stood in 1815.

Here is a triumph for Messrs. Rickards and Crawford, and the neophytes of their School! As the opening of the Free-Trade in 1814 cleared all the Jungles, and cultivated all the wastes in the permanently settled Provinces,—as, indeed, Mr. Rickards\*“ always anticipated,” so that great crisis gave a momentary fillip even to the lethargic slumbers of our Civil Judicature. But the defects of the system would seem to be incurable, for even the stimulus of the universal nostrum lost its influence after four years. Yet it would be well to enquire a little farther into the causes of the increase, before we determine that it is to be ascribed to any loss of energy or want of exertion in the administration of justice. How far the balance against the year 1826, as compared with the file of 1818, is attributable to any causes which may attach discredit to the local Government of British India, the subjoined Statement will show.

*Memorandum of the total number of regular Suits and Appeals, disposed of in the several Courts, during the years 1818 and 1825.*

Disposed of in 1818.	Disposed of in 1825.	More in 1825.
139,210.	166,504.	27,294.

It is litigation, therefore, that has increased, not the efforts of the Government and its Officers which have relaxed. But as the Company can do no right, the increase of Civil suits has been ascribed to the spirit of fraud and chicanery which our sys-

tem has given birth to and fostered,—as if Hindoos were not litigious in the days of Orme,\* or as if in India alone points of collision were not multiplied, and new subjects of dispute did not arise, with the accumulation of wealth, and the extension of agriculture and commerce.

The natives of Bengal Proper are decidedly litigious, and as far as they, at least, are concerned, the arrangements which have been made, or are making, to facilitate an appeal to the laws, will be productive of evil consequences, bearing a considerable proportion to the whole. Where justice is dear, or otherwise difficult of attainment, many, doubtless, suffer from their inability to prosecute rightful claims, or to resist wrongful encroachments; but the reverse of the picture is not without its shades.† Regulations, passed severally

\* “That pusillanimity and sensibility of spirit which renders the Gentoos incapable of supporting the contentions of danger, disposes them as much to prosecute litigious contests. No people are of more inveterate and steady resentment in civil disputes. The only instance in which they seem to have a contempt for money, is their profusion of it in procuring the redress and revenge of injuries at the bar of justice. Although they can, with great resignation, see themselves plundered by their superiors, they become mad with indignation when they think themselves defrauded of any part of their property by their equals. Nothing can be more adapted to the feminine spirit of a Gentoo, than the animosities of a law-suit.” Orme.

† I read, that even in free, Christian, and enlightened America, the cheapness of law, and the multiplication of Courts, have tended to make law-suits the chief business of every man's

in 1814 and 1821, increased the number, and extended the jurisdiction of the Native Judges. I cannot but believe, that the beneficial results of such a measure do and will preponderate greatly. Still, I am certain that the closer you bring justice to men's doors, the more likely will they be to step into the Court with frivolous and vexatious suits. "We know," says Sir Henry Strachey, "that the inhabitants of Bengal consider a law-suit as the remedy for every dispute which arises among them. In vain we exhort them to any sort of arbitration: they are satisfied only with the decision of a Court, which they look upon as a command from a Master or Sovereign. I may add, that they almost always appeal, when the cause is appealable, if they can pay the expense attending the prosecution of such appeal."\*

The more, therefore, you reduce law expenses, or, which is nearly the same thing, the more Courts of petty Jurisdiction you establish, the greater will be the number of litigants, in India as elsewhere, but in the Lower Provinces of that country more especially. But many other causes have, without doubt, concurred to produce the

life, and to generate incalculable swarms of lawyers. In England, where we labour under evils of an opposite description, hundreds, even of the wealthy classes, go down to their graves without even appearing either as Plaintiffs or Defendants.

\* Judicial Selections. Vol. I. page 57.

effect in question. Land is the chief source of all litigation in India, and, for many years past, fresh land has been annually brought into cultivation. Landed property, again, has greatly increased in value in the eyes of him who covets it, as well as of its possessor ; wastes, which formerly separated the estates of many proprietors from those of their neighbours, and thus precluded collision, have been brought under tillage, and the soil has become the subject of dispute ; and mortgages, private sales, and other similar transactions, all of which contain abundant seeds of difference, are much more frequent than at a former period. The suppression of affrays and family feuds, by the strong hand of the Police, has driven the parties who were accustomed to seek rude redress by such means, into the Civil Courts ; and, in other quarters, the spirit of gambling, restlessness, and turbulence, which used to manifest itself in open violence, and the indulgence of predatory habits, now finds vent in the gentler excitation of a law-suit. The subordinate classes of the agricultural Community do not submit to the extortion of their superiors so patiently as heretofore ; and every native subject of the Company is well aware that the Courts of Justice are open to his complaints against the Revenue Officers of Government. Other circumstances might be adduced to swell this list, but enough has been said to account for the increase of litigation, without recurring to that “ universal



cause," to which our reformers attribute every evil symptom in the constitution of Indian society, —the badness of the laws which the Company have given to their subjects, and their mal-administration.

From the manner in which Mr. Rickards speaks of the King's Court, and the "arbitrary proceedings which occur, without hesitation, beyond the limits of its jurisdiction," persons who have no practical knowledge of the subject might be led to suppose, that, beyond the bounds of Calcutta, there is one law for the people, and another for the Government; or rather, that the latter acknowledges no rules for the restriction of its conduct towards its subjects; and that the Officers of the judicial Department act in strict league and unison with their brethren of the fiscal branch of the service, against their common prey,—the lieges.

How wide such conjectures would be of the truth, every man who has served in any part of the Bengal Presidency, can testify. In our Civil Courts, the leaning is notoriously against the Ruling Power; and, of this circumstance, the natives are so well aware, that I have heard them use a proverbial expression,—signifying, that the Government has neither father nor mother. So much, indeed, did the interests of Government suffer, partly from the cause above referred to, and partly from the superior activity and address of the individuals opposed to them, to that manifested by their comparatively irresponsible Agents,

that they were, at length, compelled to appoint an Officer, with the title of Superintendent and Remembrancer of Legal Affairs, to conduct their suits. The Company, when it enters, as a suitor, the Courts in which its own Servants preside, receives no better measure, by a single grain, than is meted out to it in that where the Judges are appointed by the King.

The increase of litigation, from most of the causes that I have enumerated, is matter of exultation rather than of regret. No one dreams of charging upon the newspapers of England the murders and suicides which they record; but there are more than one writer who seem resolved to hold the judicial system in Bengal responsible for all the evils which its active energy brings to light and grapples with; as if publicity and crime were identical; as if fraud, violence, and oppression, were unknown in British India, before the days of Lord Cornwallis.

Defective as our institutions are acknowledged to be, they have already produced vast good, and contain within themselves many germs of still farther improvement. It appears, that, in 1825, 166,504 Causes were disposed of in our Civil Courts. Here is a great, a tangible blessing. Many thousands of these causes hinged upon disputes between landlord and tenant,—the opulent and powerful Zemindar, and the hitherto defenceless Ryot; and, besides these, many thousands of summary suits, affecting the same

parties, are annually disposed of. Before the existing tribunals were established, ten-fold tyranny and extortion were practised, but, as redress was no where to be found, the sufferers were compelled to submit in silence. Is nothing gained, then, by the actual protection of thousands every year; and, is it not to be supposed, that the example of their rescue will operate as a general check upon oppression, and stimulate others to a similar assertion of their rights?\*

Again, the resort of litigants to our Courts, in consequence, directly or indirectly, of the constrained abandonment of violence and license, ought to be regarded with satisfaction. Mischievous as a litigious spirit confessedly is, it is

\* “ To protect the Ryots completely from this shocking oppression, this universal robbery, of the horrors of which, when under the worst form, nobody in this quarter of the world can form an adequate conception, we ought to have tribunals always accessible, without trouble, without expense. This cannot be done; at least, it never has been done, though we have done much: Compromises, therefore, take place. But less and less cruelty is committed; and, comparatively, the Ryots, under our Government, enjoy ease and happiness.”

“ Perhaps, in Bengal, not many thousand of these robberies are committed in a year; and none of them are attended with extreme cruelty, very little beating even. But, before our Courts were established, the number of these robberies, which took place every year, was much greater, and they were often attended with imprisonment and whipping.” Sir H. Strachey’s *Answers to Courts’ Queries*. *Judicial Selections*. Vol. II. page 59.

far better that men should go to law, than murder each other in affrays, or ride the country like moss-troopers, armed with spears and match-locks. What compulsion has effected for the present, will become habitual to the rising generation. In the North and North-west, the fall of Bhurtpore will lay many restless spirits, by the complete establishment of our ascendancy. In the Lower Provinces, Decoity would seem to be wearing out, and if there be no relaxation on the part of the Police, it will, probably, be almost unheard of, after five-and-twenty years.

Meanwhile, much remains to be done, in every branch of the administration of justice, and no men, as a body, can be more acutely alive to the necessity of unwearied exertion, and to the claims which our Indian fellow-subjects possess upon their most zealous services, than those functionaries of whom Mr. Crawford speaks in such disrespectful language, as labouring under the prejudice and delusion of Caste. If it be one of the prejudices of Caste, manifested by those who are employed in the dispensation of Civil and Criminal Justice, to toil day after day, and year after year, with the most conscientious and anxious endeavours to protect and elevate the depressed, to prevent the strong from preying upon the weak, and to dispense equal measure to every suitor, they must plead guilty to the charge;—

as the broken constitution of many a judicial Officer can testify. If it be delusion, to regard the people, to whom they are deputed to administer the laws, with compassionate philanthropy, as fellow-creatures to whom the unsearchable decrees of Providence have assigned a station in moral and intellectual knowledge far inferior to their own, again I must confess that the accusation is just. But neither their prejudices nor delusion have blinded them to the conviction, that, comparatively speaking, but a small portion of their path is yet behind them. They see, at least as clearly as Messrs. Rickards and Crawford, how far they have hitherto fallen short of the objects proposed for attainment, and of what vast improvement the system is still susceptible. But they are also aware of many difficulties which those Gentlemen either overlook or shut their eyes to. They have to legislate for, and govern real men,—to deal, hand to hand, with a society, vicious and disorganized almost beyond parallel,—not to sit down, at the distance of 16,000 miles, to draw up Utopian constitutions; to prescribe quack medicines for disorders, of which the cause and malignity are equally unknown; or to denounce the only existing sources of revenue as polluted, without an attempt to show in what manner the means of maintaining our Empire could otherwise be realized. In short, they have to devise and execute, what their self-

constituted task-masters, on this side of the water, have only to talk about.\*

In the words of Sir Henry Strachey, " We did establish our system, and, imperfect as it is in practice, no law or institution, no measure of any sovereign, in any age or country, perhaps ever produced so much benefit. The advantages of our system are beyond all price." But, no man, who has ever looked beyond the creations of his own imagination, could have expected either the production of unmixed good, or that the machinery employed should work up to its possible capabilities. Much must be allowed for friction and resistance,—much for the occasional unavoidable employment of inferior agency. Many years have elapsed since the above-quoted observations were penned, by one of the ablest and most unprejudiced observers of Indian affairs, and I think that I have adduced proof of the subsequent progressive improvement of the administration of

\* These are the men whom Sir John Malcolm so well describes. " Orators and Authors, who, treating Indian subjects without reference to those local circumstances and considerations which peculiarly embarrass them, have pleased and satisfied general and uninformed men, by reducing the most complex points of policy to an easy abstract question. The necessity under which those who exercise power in India act, the comparative dangers they have to encounter or avoid, the means they have of executing one plan, or the want of means for another, the feelings and character of princes or nations, whom they may flatter or offend, are, to such persons, matters of little consequence."

justice. I am firmly persuaded that it advances yearly, in an increased ratio. Still, greater efforts are called for, to make it keep pace with increasing knowledge, wealth, and civilization; and all such efforts will certainly be futile, unless a large share of judicial duties be entrusted to the Natives themselves.

Their low tone of moral feeling is the only real obstacle opposed to such a measure; but this difficulty would, doubtless, be considerably obviated, if the salaries assigned to Native Judges were calculated to raise them above every-day temptation. Sir Henry St. John truly says, that "it is only since the Europeans were well paid, that they themselves became trust-worthy." There is not, certainly, so good a basis of education and principle to work upon, where Natives are concerned; they do not understand their own interests so well, nor can they regard detection in mal-practices as such absolute ruin, either to character or prospects in life. But let the experiment be tried, before its hopelessness be predicated.

Yet there are some who look to the services of English Colonists as the only agency that could be employed with effect, for the suppression of crime, and the dispensation of justice. They forget, that every European so employed, must exclude more than one intelligent Native from office in the land of his fathers, since the remuneration assigned to the former must be on a much higher scale, than that which would fully

satisfy the latter. They forget, too, to employ the words of Mr. Ellice, that "unless we can mentally disqualify our subjects, we may rest assured, that they must deeply feel, and, perhaps, at last, resent, their practical exclusion from some share in the higher branches of administration; that a mere security of animal existence will not satisfy; and that the intellect which cannot find a natural outlet, will inwardly fester, till it corrodes, and fatally injures the whole frame of society."\*

I do not mean to say, that if the local Government had a larger number of English functionaries at command, the state, both of the Police and Civil Courts, would not be greatly ameliorated. But, it should be borne in mind, at the same time, that there are other imperative calls upon the Rulers of British India, besides those above mentioned: that, in short, supposing both the means of effecting the common object to be equally attainable, (which is far from being the case,) it might be politic as well as just, to make some sacrifice in other respects, with a view to conciliate the affections, and satisfy the legitimate pretensions of the educated and influential classes of our native subjects.

As there has been some misapprehension with regard to the principle of Appeal, recognized by the Bengal Regulations, it may be as well to

\* Letter to Sir Charles Forbes.



state, that the decision passed upon the first Appeal is always final, except in cases where such judgment may appear to be inconsistent with some established judicial precedent, or with some regulation in force, or with the Hindoo or Mahomedan law, or in which it may involve some point of general importance, not before decided by the Superior Courts. Beyond the regular Appeal, therefore, which is at the option of the party cast in the original suit, it rests, as in England, exclusively with the Judges of superior jurisdiction, to grant a new trial.

Of the 166,504 suits which were decided in 1825, 150,651 were disposed of, after an average delay of 7 months and 22 days; and 15,853, after 3 years and 15 days.

The charges, including all authorized costs and expenses, of every description, *of both plaintiff and defendant*, the fees on exhibits, and processes of all kinds, stamp paper, pleader's fees, allowance to witnesses, &c. &c. average  $13\frac{1}{4}$ th per cent., on the value of the thing litigated.

“ That law process is tedious and expensive,” says Sir Henry Strachey, “ seems to be the usual complaint, in countries where its administration is supposed to be most perfect. We cannot reasonably expect this defect to be entirely removed.” Yet  $7\frac{1}{8}$  per cent. upon the value of the litigated property, is light, I believe, in comparison with the price at which such “ expensive luxury” as law is purchased in more civilized

lands; and it must, also, be remembered, that, under the Bengal Regulations, the Judge can saddle a great proportion, if not the whole, of the expenses upon either party, at his discretion ; being thus enabled to impose a fine upon oppressive and litigious suitors, and to relieve the person whose rights had been unjustly molested or withheld, from all share of the burden. It is further worthy of notice, that the costs and expenses of suits are far less in proportion in those Courts where the delay is longest.

Although this Essay has already outgrown my original intentions, to a considerable extent, I cannot bring it to a conclusion without some notice of Mr. Rickards's reprobation of the principle of land taxation.

We have derived it, he says, “ from the impure fountain” of the financial system of the Mahomedans ; we extract “ the utmost the wretched inhabitants are enabled to pay ; flesh and blood can yield no more” at present, but if we would “ allow them to accumulate wealth, and to spend it, as they then would assuredly do, on the luxuries of life,” “ there can be no earthly reason why the Native Indians should object to a moderate and sound-principled system of taxation, that was to relieve them from heavier oppression.”\*

Now, in the first place, Mr. Rickards's premises are not sound ; we *do not* take the utmost the

\* Pages 285, and 530.

wretched inhabitants are able to pay. The present assets of estates throughout the permanently settled Provinces, are, perhaps, taken generally, double the amount of the demands of the State. In many instances, the profits of individuals are still greater; and they, therefore, have full means of indulging in luxuries, according to their several tastes and habits.

But this is not to my present purpose: my primary object is to persuade Mr. Rickards to define a "sound-principled system of taxation." If he can settle that point to general satisfaction, he will deservedly be ranked with the greatest benefactors of the human race; but until he can bring the Political Economists of Blackwood's Magazine to repose in sweet concord with Mr. Macculloch,—until the friends of free trade, and the advocates of exclusionary Tariffs, for the protection of home manufactures, compose their differences,—until there be somewhat more of community of sentiment with regard to *principles* than at present exists, I scarcely think that the Governors of British India would be justified in abandoning the present system, with no more definite instructions for their guidance in raising a less polluted revenue, than are to be derived from Mr. Rickards's pages.

"Relieve them," says Mr. Rickards, "of the cruel exactions to which they are now exposed,—allow them to accumulate wealth," and *then* introduce your "moderate and sound-principled system of taxation."

There is, therefore, to be no taxation at all, until wealth has been accumulated. How many years ought to be allowed for the proper completion of this process, and how is the Government to be carried on in the interim? The creditors of the State will not tarry for their interest; soldiers and servants, Native and European, are too deeply sunk in selfishness to wave their claims to pay and allowances, pending such thorough maturation of the taste for luxuries, as might enable it to sustain, without re-action, the approaches of the tax-gatherer; and, more even than this, if half the land-tax were remitted to-morrow, the only persons benefitted by the change, would be those Zemindars of whose character and conduct Mr. Rickards speaks in such unmeasured terms, and who have, at present, generally speaking, more wealth than they are disposed to spend.

But, in strange inconsistency with the language above quoted, Mr. Rickards speaks, in the same page, of “the enormity of the Government tax, *which could not be dispensed with* ;”<sup>\*</sup> and, again, of the “heavy assessment, which *the indispensable wants* of Government required to be levied from the country.”<sup>†</sup> He states, too, that “Lord Cornwallis would, *if he could*, have imposed a really moderate Jumma, in the expectation that any future increased demands of the State might be supplied from other sources of taxation, through the increased wealth of the community.”<sup>‡</sup>

\* Page 580.

† Page 596.

‡ Ibid.

If, therefore, Mr. Rickards's eloquent appeal to "flesh and blood," and his deprecation of land taxation, be intended for anything more than a mere assertion of a "noble sentiment," they must mean, that, at some period since 1790, the Government of Bengal has been so situated, that, if it possessed public virtue for the task, it might have abolished or modified the existing system, and sowed the seeds of future fiscal advantages, by a great immediate sacrifice of revenue.

I challenge Mr. Rickards to fix upon any date, during the forty years in question, at which such a measure, on the part of the Rulers of British India, would not have been an act of moral suicide. I challenge him to show at what period such a voluntary abandonment of the sinews alike of war and good government, would not have produced evils far greater and more extensive in their operation, than those which even his over-charged statement represents as resulting from land-taxation.

He who proposes the adoption of a plan to supersede a system, which, however anomalous, has endured for unknown ages, is bound to prove not only that it is abstractedly good, but that it is practicably feasible. I am not called upon to defend the principle of land-taxation, as it exists in India; nay, I may be as fully persuaded of its theoretical unsoundness as Mr. Rickards; but, until he can raise a revenue from other sources, ready to pour into the Exchequer, at the same

instant that we cut off our present supply, or can show us how to conduct our affairs satisfactorily with a greatly reduced income, the denunciations which he levels at the present system can be regarded but as flatulent truisms. Evils lie so near the surface in all human institutions, especially when they refer to that unpleasant interference with private property, commonly called taxation, that a child may detect and declaim upon them ; but it is quite another matter to point out distinct and practicable measures for their obviation. If disorders in the body politic could be cured by railing at them, the craft of statesmanship would be greatly simplified, and Mr. Rickards would justly be considered to have done more for the philosophy of Government, than any writer of our own or former times.

In conclusion, I would entreat those of my readers who make truth the great object of their enquiries, not to rest satisfied with the doubtful light derived from Pamphlets and ex-parte statements, whether emanating from the friends or adversaries of the Company ; but to draw their information upon all subjects connected with the administration of British India from the purer and more copious source which the printed Reports and Selections afford. For my own part, I ask credit for none of the positions and arguments adopted in this Essay, which shall not be found in strict unison with the general tenor of those Documents ; for they record the well-digested opinions

of a great number of able men,—all practically acquainted with the topics upon which they treat; and their sentiments are, in many instances, entitled to peculiar consideration, because they were evidently elicited by motives very different either from the desire of change, or the support of an existing system. Some of the Papers bear the genuine impress of having been penned under a strong desire, on the part of the writer, “*liberare animum suam* ;” and others belong to the general routine of business, or refer to matters of local or temporary interest. They are far too voluminous and general, however, to admit of classification, nor is it necessary that I should attempt it; for my only object is to show that a great majority of the Papers contained in the Volumes to which I refer, owe their existence to circumstances most remote from the great question now in agitation, and afford, therefore, the most unexceptionable evidence which can be appealed to. I ask no further favour for those of whose cause I am the humble advocate, than that the measures of the Indian government for the last twenty-five years should be tried by this standard. Whatever Mr. Crawford’s knowledge of the mysteries of free Trade may be, he cannot surely think that his qualifications for estimating the merits of the Government of British India are on a par with those possessed by Lord Hastings, Sir Henry Strachey, Mr. Holt Mackenzie, and many others who have contributed to form the Selections in question. Indeed, all that

he can know,—almost all that any man can know, who has not spent many years in the acquisition of personal experience,—of matters of Revenue, beyond mere figures and sums total, of the state of the Police, the administration of Civil Justice, and the condition of the People, must be drawn from the information so furnished. These papers are often appealed to by Mr. Rickards, though he has drawn nothing from them but proofs of extortion and bad government. In Mr. Crawford's eyes, also, the administration of the Company bears the appearance of "despotic misrule and insecurity." I ask no better defence against such charges than may be deduced from the public correspondence and records already in print, and from those papers which will, doubtless, be given to the public during the approaching investigation.

But partial truth is a most dangerous weapon in the hands of those determined to make out a case, for it can often be placed in such a light as to produce very erroneous impressions. Of this, Mr. Rickards has taken full advantage. By arraying the opinions of Mr. Tucker, the warm advocate of the Zemindary form of Settlement, against the plan adopted at Madras, and quoting, in disparagement of the former system, the language used by the Court of Directors at a time when they were disposed to regard the Ryotwary Arrangement in the most favourable point of view, he has contrived to throw discredit upon both.



The evidence which alone can be safely acted upon, must contain not only “ the truth, and nothing but the truth,” but “ the whole truth” also.

Let those, therefore, who wish for pure information, drink at the fountain-head. Let them seek for collateral evidence with regard to the nature of the Company’s Government, from the general tone and style adopted by their Servants of all grades, from the Dispatches or Minutes of the Governor General, to the Reports of humble Magistrates or Collectors. If the reader find, that, generally speaking, no attempts are made to blind the superior authorities to the extent or nature of existing evils, that the most unpalatable truths are boldly communicated, and opinions maintained which are directly opposed to the known sentiments of the persons in power,—he will not, perhaps, think it too much to conclude, that a Government, whose functionaries have acquired such uncompromising habits, cannot be very obstinate in error, nor hostile to improvement. If, again, the Papers in question breathe a spirit of good-will towards the whole Native population, if they indicate an earnest desire on the part of their authors to promote the real welfare of all classes of our Indian fellow-subjects, and if they contain internal proof that this is not merely the language of the lips or the pen, but that the words are borne out by corresponding actions;—the opinions of Public Officers actuated

by such feelings, will, doubtless, be received with far greater attention and confidence than the declamations of dilettante philanthropists, or the mere hardy assertions of the advocates of free Trade.\*

☛ Mr. Crawford quotes Adam Smith to show that “ in all political questions affecting their own interests, *the very advice* of Merchants should be viewed with distrust.” P. 41. He does not tell us, however, whether the father of political economy makes any exceptions in favour of the Merchants and Agents of Calcutta, or those equally disinterested persons,—the Gentlemen of the Royal Exchange at Liverpool.

THE END.

the termination of those occurrences from which its present interest arose, or would have forced it on the public attention, by a fuller developement of the magnitude of the evils which it threatened.

The recent accounts from India have disappointed this expectation ; and I have, therefore, thought it right no longer to delay submitting these few observations on the leading principles of our Indian policy to the consideration of the public at large.

A few verbal alterations and corrections have been made, and some further notes subjoined, either tending to support and authenticate the statements in the text, or to illustrate the general conclusions deduced from them.

*January 1826.*

## CONSIDERATIONS, &c.

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**T**O the many unavoidable evils which attend a country, subjected by conquest, to the administration of another lying at a remote distance, a prodigious aggravation arises, from the little interest the conquerors are apt to take in its concerns. In the history of our connection with India, few circumstances have occurred, which serve more strongly to illustrate this fact, than the indifference which the public have manifested to the war which has lately arisen in that part of the world. Its importance is not to be estimated by its success or failure as a military operation, but, by its merits, as a measure of policy, capable, if effectual steps are not taken to prevent the prosecution of those views in which it seems to have originated, of producing, in whatever way hostilities may terminate, lasting and alarming results.

In order to make the real nature of this war more manifest, it will be desirable to take a short retrospect of the connection between events from the commencement of our government, and of the apparent views which have been entertained for

the permanent and peaceable establishment of our empire, till it has reached a point when that object is in a great measure secured. The connection between this historical review and the merits of the more immediate question, may not be at first very obvious, but it is essentially necessary, both to illustrate the new and peculiar character of the present operations, and the state and interests of India generally.

When the intercourse between Europe and India began, a powerful and flourishing government existed in the country—a Court, unrivalled in magnificence and wealth—viceroys, or rather feudatory sovereigns, governing great principalities—powerful individuals, administering the great offices of state, superior and subordinate—great military chiefs, with hosts of retainers—and in short, a large body of gentry, sharing among them all the immense resources of the territory, and the dignities of the Mogul empire. The habits of all this class were decidedly military. The government was founded on conquest. It was a common saying, that the empire belonged to the longest sword, and such were the principles of its constitution, that by no other sceptre but the sword could it be ruled.

The effect of such a state of things was to beget in the nobles, among all the servile forms of a despotism, a spirit of the most haughty independence, repressed only by the superior force which compelled their obedience. The empire,

with all its honours and emoluments, was considered a sort of common inheritance, to which their several pretensions were to be settled by war; and the consequence was, that there was rarely, if ever, a moment, at which the Government was not engaged in hostilities with some refractory principality, or the country torn by the dissensions of individuals too powerful for control; and, at times, whole provinces were dismembered, and erected, by successful rebellion, into separate kingdoms.

Men, excited by contests for prizes so splendid, could not fail to acquire those qualities, by which, in such a state of society, they were to be obtained. Courage and cunning, a daring and unprincipled ambition, a restless disposition to tempt fortune, unlimited hopes, and the most total disregard of the means by which they were pursued,—by such animating principles among those by whom movement was to be given to society, there were reared up all the instruments necessary to render their operation effectual: Hardy and daring retainers, whose only virtue was fidelity to their Chief; and whole classes of men, endowed with the most consummate address in all the arts of corruption and of low intrigue. The literature of the country (if such might be said to have existed) formed by the prevailing tastes, was exactly such as was calculated to keep alive this state of things—memoirs of successful rebellions, and exaggerated accounts of the magnificence of war—enthusiastic descrip-

tions of personal prowess, and in all their maxims, the most liberal allowance for every measure recommended by considerations of policy ; these, with songs and ballads, and fictions like the Arabian nights (held in such a state of society, sufficiently possible to stimulate the imagination to extravagant attempts)—the stern and fanciful doctrines of the Korân, and the wild legends of the Hindoos, constituted nearly all that could form or reflect the character of the people.

Viewing our first hostilities in India with the advantage of distance, and in relation to all that has since occurred, it is perfectly manifest, that the moment we drew the sword among such a condition of mankind, to maintain by force a mercantile intercourse, there could be but one termination to the struggle—the complete and avowed superiority of the one power or the other ! either that we should be expelled from the country, and received again, if received at all, on such terms as the Government should choose to prescribe, or that we should clearly and confessedly become the paramount authority in India.

There is some ground to think that the great Lord Clive, even at that early period, was not blind to this view of the subject, and that when he called his council of war before the battle of Plassy, he was much less influenced by any hesitation as to the almost certain victory\* that await-

\* He had insured the defection of a large part of the enemy's force during the action.

ed him, than by an unwillingness fairly to measure the strength of the Company with that of the native Government. His views, certainly, afterwards, were strenuously and consistently directed to prevent the necessity of further usurpation on the native authority ; but a variety of circumstances concurred to precipitate the uncontrollable process, to which he had contributed so materially to give a beginning.\*

The power, constituted for the regulation of the Company's mercantile transactions, and the subordination of their servants, necessarily proved totally inadequate to enforce obedience to acts that were now to assume the character of measures of Government. † The individuals who thus suddenly found themselves in a condition to dictate terms to the native authority, were merchants trading largely on their own account, and consulting the gain of their employers in England. Their views, their interests, were those of merchants, and their object naturally was, to make the most of the existing condition of things. The motive was common to all ; the power to repress, feeble,

\* I speak of his views before he left the country ; on his return he found such changes had taken place in his absence, as left him no choice but to go on. " The very Nuwabs," he observes in one of his dispatches, " whom we might suppose, would be watching to destroy us : we must indeed become Nuwabs ourselves, in fact, if not in name. In short, if riches and security are the objects of the Company, this is the only way of securing them."

† See Note (A.)



and, with the responsibility, uncertain and divided. Their wishes were powerfully seconded by the avidity and want of principle of native agents ; and the whole establishment, every thing that could claim affinity with the triumphant power of the Company, rushed with the eagerness of bloodhounds to the plunder of the devoted and defenceless country.\* It was not without repeated struggles, that the native authority relinquished the defence of its own rights and those of the people ; but every struggle terminated in a revolution, accompanied by additional concessions, till the power of the Nuwab was completely enfeebled, that it became altogether inadequate to carry on the functions of Government. After the power of the Company had been once evinced to place the Government in hands of their own choosing, nothing but the continued residence of such a man as Clive in the country, with power sufficient to subject the interests of his inferiors to those views of moderation which his own policy would have dictated, could have retarded the occurrence of such an event. As it was, the administration of Government fluctuating continually, was consistent in nothing but the insatiable appetite for wealth, which the succession of adventurers kept alive, and which was continually glutted, only to be renewed. No remedy now remained, but to substitute in the Government the power by which the native

\* See Note (B.)

authority had been supplanted ; and the Company thus became the rulers of one of the richest provinces in the East. \*

From the time that this change in their situation was effected, their Government has been gradually improving, rather from the unavoidable interest in doing that well, which people are obliged to do themselves ;—from that sort of adaptation which time and experience produce among the parts of a system,—and from the liberality of views and good judgment of its servants in the several departments of its affairs, than from any principle of amelioration embodied in its constitution. During these occurrences, the Mogul Government had been in one of those states of depression, to which all despotisms are subject, when enfeebled by calamity ; they became the prey of dissension among their own constituent parts. The English were thus allowed to contend single-handed with the local authority of Bengal, and an opportunity afforded to the rise of a power that was to extinguish the empire for ever.

The same principles which had hitherto embroiled the settlement of Calcutta with the Soubahs of Moorshedabad, were now to operate on a more extensive scale, and to produce a state of things between the English Government of Bengal and the native states, very similar to that

\* See Note (C.)

which had been exhibited in a narrower sphere. The extraneous authority established in the country, connecting itself with the unknown and incalculable power from abroad by which it was supported, early attracted the jealousy of those states which arose along with it out of the ruins of the Mogul Empire, and rendered us the centre on which the whole policy of the Peninsula hinged. The views of no party seem to have been, for a time, however, methodized into any system,—but a variety of petty expedients manifested sufficiently the vague, though prevailing, idea that was uppermost in the public councils. The first person, after Lord Clive, who formed any large or comprehensive notion of our situation was Mr Hastings.\* At first his object seems to have been to play off one native state against another,—availing himself of their jealousies and blind individual ambition, and endeavouring to maintain such an equipoise as would leave the arbitration of affairs always in his hands ; but his sagacious mind had ultimately seen, that a permanent and positive *power* of regulation could alone lead to that state of security and tranquillity which the precarious influence all his great ability was scarce able to maintain, could never secure or perpetuate ; and to his comparatively early perception of this truth, is perhaps to be

\* See Note (D.)

ascribed some of the measures of his government which, taken apart without reference to the end which they were to produce, or the evils that end was to remedy, seem to savour of wanton violence and injustice. \*

The sound good sense, moderation, and manly firmness of character of Lord Cornwallis were admirably calculated for the consolidation of our power, and to have arrested the progress of aggrandizement, had it been possible to arrest it. He succeeded to the government at a time so far removed from the causes which gave the first impulse to our policy, and so far distant from the point to which it was verging, as to render the symptoms of the current, by which we were carried along, less sensible than at almost any other period of our history. The cast of his mind, perhaps, disqualified him for the detection of those latent and general principles by which the course of events was swayed ; but his perception of the immediate bearings of his situation was perspicuous and distinct. The great genius of Mr Hastings had, in some measure, disentangled the web of Indian politics, and reduced our foreign relations to so definite a form, that they almost seemed susceptible of stability on a principle like the balance of power ; and to some such condition of things the aim of Lord Cornwallis's govern-

\* See Note (E.)

ment certainly tended. But such a state of repose as a balance of power is capable of affording as a principle of international policy, evidently implies its general recognition as a motive of common action, and a certain degree of enlightened address in adapting the measures of states to the conditions it implies ; both of which were most miserably wanting among the rulers with whom he had to deal. In the constitution of government which he was sent out to administer, the Legislature of this country had imposed all the restraints that could be applied to our entering into further hostilities ; but, in spite of this, and with all the prudence of which he was master, he was forced into war ; and his administration terminated, like that of his predecessors, in a further reduction of the native States, and a large accession of territory.

The Government of his successor seemed almost expressly intended to exemplify the impossibility of abandoning the power of control which we had been compelled to assume and to assert whenever disputed, without incurring the most imminent risk of our existence as a state. The boundless resources of the soil recruited with astonishing rapidity the losses of former wars ; the power of the country was fast concentrating by different processes of aggregation in larger masses and in fewer hands. The jealousy which our increasing power had inspired, had become universal. A foreign European influence had insinuated itself

into the councils and armies of several of the native States, and inspired them with the vigour of European intellect, and the skill of European tactics ; and even our means of dividing our enemies was diminished by the manner in which an adherence to the principle of non-interference had induced us to sacrifice the Nizam.—Fortunately an individual succeeded to the government capable of meeting and surmounting the crisis. The power of the Sultan of Mysore, the power of Scindeah, and the power of the French lurking under cover of both, together with that of the Nizam, arrayed at the moment against us, might have rendered it doubtful under feebler counsels, whether a French, or a Mahomedan, or a Hindoo power, was to rise on the ruins of the English influence. By his bold and decided measures he recovered our ascendancy at the Courts of Hyderabad and Poonah—crushed at the outset the French force in the service of the former,—overthrew the Government of the house of Hydar,—discomfited the armies of Scindeah, of Holkar, and of the Rajah of Berar,—broke effectually the power of the Mahrhattas,—finally secured the expulsion of all foreign European adventurers from the native Courts, and established subsidiary relations, with a power of arbitrating differences, very generally among the larger principalities. No individual before him had manifested so distinctly a just understanding of the real nature of our

situation, or had advanced towards the object to be obtained with such rapid and successful strides. When about to reap the further fruits of his victories, and to consolidate and mature the system he had extended so far, he was arrested in his career by the apprehensions of those who could see nothing in his measures but an idle or unprincipled ambition, and a fruitless expenditure of the Company's treasure. By the change of councils which supervened, the strong boundary which he had provided on the left bank of the Jumna was abandoned, some of the minor arrangements of the system he had so far advanced altered and dislocated, and the invaluable opportunity thrown away of pursuing by negotiation, under the influence of our recent successes, the more extensive developement of the only basis on which any permanent repose could be secured to the Peninsula.

Lord Cornwallis returned to the country in the feebleness of age, with impressions of the scene on which he had acted himself, much stronger than those which a short residence could produce of that by which he was now surrounded. With the caution of advanced life, added to his natural prudence, and still looking more to policy than power as a principle of pacification, he had nearly produced a revulsion in the system, by relinquishing the strong ground his predecessor had assumed, and attempting to disarm the well-founded

apprehensions of the native States by vain assurances of our moderation.

The government which Sir George Barlow held *ad interim*, and that of Lord Minto, interfered but little with the internal state of the country. The reduction of the foreign European settlements gave occupation to the Company's armies during the administration of the latter; and a considerable time of repose was thus afforded to the action of those causes which had operated so often, and which the English power was not yet sufficiently systematized to prevent from fermenting into violence.

They assumed indeed a less obvious and ostensible, but not on that account a less dangerous form, than heretofore. It had been very clearly foreseen by Lord Lake, during the discussions which arose after Lord Wellesley's departure about the countries to the southwestward of Delhi, that if the minor states were left so unprotected as to render them a prey to the bands of adventurers, of whom the native armies had been composed, "the habits of this tribe of men would be perpetuated, and hordes of plunderers would be formed, ready to join the first bold adventurer who offered to lead them into the neighbouring and fertile provinces of the Company."\* The prediction was most exactly fulfilled; an immense predatory force of cavalry grew up on the banks of the Ner-

\* Dispatch from Lord Lake to the Governor-General in Council.



buddah, and carried their incursions in all directions for many hundred miles, producing a state of universal insecurity, and precluding the possibility of all improvement. It served as a focus to the desperate characters of the whole Peninsula;—its numbers were limited but by the extent to which they could be maintained,—it counted among its Chiefs some natives of uncommon abilities; and it possessed a sort of equivocal connection with the governments of the surrounding states, which would inevitably combine them in the cause, the moment an opportunity occurred of acting against us with advantage.

The British Government now experienced, as the Factory of Calcutta had done towards the close of their struggle with the Soubahs of Bengal, the evils of a nominal *sovereignty* in states which we had been compelled to enfeeble beyond the power of maintaining the rights, or performing the duties of independence. To purchase an exemption for their own territories from pillage, the neighbouring states of Holkar and Scindeah had, perhaps not unwillingly, lent the countenance of their governments, (which they certainly could not have safely withheld,) to different bodies of these freebooters, by nominally receiving them into their service; and when pressed for redress for enormities committed on the territories of others, on the score of their responsibility for the acts of their subjects, they urged the undeniable plea of their inability to restrain them.

On the north-eastern frontier a power had been for half a century imperceptibly growing up, important from the warlike character of the people, —from a border of 800 miles conterminous with the Company's territory, and from the rapidity with which they were extending that line by their lateral conquests. The blind confidence inspired by a period of uninterrupted success in their previous wars, led them to invade the British provinces ; and the large tract of open country along which they were exposed to their incursions, rendered general hostilities unavoidable. Had the plan of operations directed by the Marquis of Hastings been carried into effect with half the ability with which it was projected, this war would have been terminated with a rapidity which would have rendered it wholly inoperative on the general aspect of affairs. The languid character, however, which it assumed for a time, the great difficulties of a mountainous warfare, and some reverses which portions of the army sustained, contributed materially to countenance the schemes which were in agitation among the native principalities, and to give a more threatening appearance to the political horizon. The intuitive rapidity with which he seized the true interests of the country, the comprehensive system in which, from the first, he proposed to embrace the relations of the Peninsula ; the masterly military skill with which he circumscribed and crushed within his grasp the fugi-

tive force with which he had to contend, while he dissipated all the combinations by which it was supported ; his complete assertion of the British supremacy without the violation of public faith ; and the great progress which he made towards maturing all the reciprocal interests and obligations of the different states into consistency, must place his government among the most splendid and useful administrations by which the affairs of India have ever been directed.

The sword had now done its business, and time and a steady adherence to the principles which Lord Hastings had established, alone were required to secure and continue the tranquillity of India. From the Delta of the Indus to Sirhind, the frontier is covered by a desert impassable for an army ; from the mountains of Caubul to the great angle of the Burhampooter, the vast ridge of the Himmaleh extends ; and from the angle of the Burhampooter a strong and difficult country of woodland and of hills stretches to the sea, having interposed between it and the interior of our provinces, the great branch both of that river and the Ganges, and all the various channels by which their waters are discharged. In all this immense frontier, (sweeping round the head of the Peninsula, from the mouths of the Indus to those of the Ganges, including the courses of both, and skirting the mountainous range from which their waters are poured into the ocean,) there

are but two possible avenues, and both of them eminently difficult, through which an invading army can penetrate: the one through the territory of Cutch, at the mouth of the Indus; the other, through the defiles of Caubul; and such are the comparative facilities of the latter, that, from Alexander the Great, downwards, it has been the route by which every conqueror has entered the country: and to all the territories lying within this limit and the waters of the ocean the English power gave law.

Here, then, was a line at which every consideration which had hitherto demanded our interference in the affairs of foreign states required that we should stop; from beyond it no serious danger could be apprehended, and within it our authority was supreme. Had it not been for this natural boundary, there can be no doubt that the same causes of mutual apprehension would have extended with the sphere of our contiguity to other countries, and that we should have been involved in an interminable and hopeless scene of violence and contention. "From the day," says Sir John Malcolm, "on which the Company's troops marched one mile from their factories, the increase of their territories and their armies became a principle of self-preservation." The principle had gone its length and produced its consequence; it is our own fault if we take a fresh departure, and marching again beyond the

limits of India, spread the flame to the rest of Asia.

It appears, therefore, from our own past experience in India, that from the moment we assumed the character of aggressors, every effort was found ineffectual to reconcile, in the first instance, the independent existence of the Company's factory with the independence of the Soubahs of Bengal; and, in the second, that the principle, so far from being weakened by the extent of our dominion, gained strength with the accession of territory; and that after we superseded the authority of the Nuvab of Moorshedabad, and became the governing power of the principality, neither the genius of Mr Hastings, nor the firmness and discretion of Lord Cornwallis, nor the forbearance of Lord Teignmouth, could establish any durable relations of peace or security, either by intrigues or terror, or approximations to a balance of power, or a steady adherence to a principle of non-interference; and that nothing but the views of those who looked to the limits of India alone as the boundaries of our influence, actual or indirect, afforded any prospect of permanent repose.

In order more fully to appreciate the policy of the present war, it is necessary to consider the importance of the moment to the other interests of the country; and the probability of the duration of that tranquillity, on the due improvement

of which, not only its continuance, but the progress of the country and our very existence may depend. The situation which we have attained, may be considered as having put a period to the ostensible efforts of the other principalities for the reduction of our power; nor can any reasonable apprehensions of further grounds of war within the Peninsula be entertained, unless the Sikhs indeed, should so far miscalculate their own power as to provoke hostilities: but it would be absurd to suppose, that we stand on ground that is destitute of danger; we have put an end, it is true, to the form which the danger has hitherto assumed, but we have only to consider what our situation is, to be able to judge of its perils; that of five-and-twenty thousand individuals, at the distance of four months' sail from their native country, among eighty millions of people. \* Although a considerable change has been produced on the people, by the operation of our Government and the series of events which have been described, yet no alteration has taken place that could at all diminish the risks inseparable from such a condition of things; no progress has been made in connecting the Government with the people, by any of those ties by which their fortunes might be identified;—the inhabitants are utterly and entirely excluded from all share in the management of their own affairs;—they have no par-

\* See Note (F.)

ticipation in the emoluments or honours which the country affords.—On the other hand, without the smallest means of influencing the church establishment, either Mahomedan or Hindoo ;—professing a different religion ;—practising peculiar and obnoxious customs ;—speaking a separate and unknown tongue, and destitute of all individual influence ;—arriving in the country but to profit by its wealth, and migrating from province to province, during our stay, to go through the mechanical discharge of the duties of office—what is there in *our* situation that can be supposed to afford the smallest security against the many causes which exist to occasion discontent ? By the security which our protection has afforded, and above all by the effects of the *permanent settlement* in Bengal, and the more durable leasehold tenures elsewhere, the cultivation has extended, and probably the population has increased. But every thing that was exalted above the vulgar by descent, by wealth, by actual station, or by the respect attached to the memory of former services, have been sinking, by a slow and silent process of misery, to one uniform and undeviating level of poverty and insignificance.

The large body of gentry which existed, as has been stated, under the Mogul Empire, were exclusively supported by the revenues of the state.\* According to the constitution of the empire, the sovereign was the sole proprietor of the soil ; and

\* See Note (G.)

we assumed the same principle as the basis of the government which we introduced ; but the principle in the two cases amounted to two things widely different from each other. In the one case it amounted to the right of levying the whole rent of the country, and of distributing it *among the people* at the discretion or caprice of the individual on the throne. In the other, it amounts to the right of levying the rent, and *of carrying whatever we can save out of it away*. Such of the families as had preserved jewels or treasure from the days of their prosperity continued to struggle on with some appearance of their former respectability for a second generation, but, in our provinces at least, this whole body of men may be considered as nearly extinct. Nor does the evil end here : every country, as is well known, is “ its own best customer ; ” \* and the large sums in which the revenues were disbursed to individuals, contributed, in some measure, to supply the operation of those principles by which capital, in a more natural condition of mankind, is distributed and accumulated, and enabled the body of nobility to act as a powerful stimulus to the industry of the country. The wants of the European gentlemen are not *their* wants, nor those to which the people are accustomed to minister ; many of them are supplied directly from the mother country, and by the remittance of all their savings there is a steady and

\* Wealth of Nations.



constant exportation from the immediate source whence all capital is derived and supplied. How, indeed, can a country prosper, when the wealth which is drawn from the soil, and which should descend again, like the rains of Heaven, to fertilize and to adorn it, is regularly transmitted to another land.\*

The artificial division of labour established by the institution of castes, and the limitation of the wants of the people by preventing the transfer of industry from one object to another, and extinguishing the most powerful excitements to exertion, have contributed still further to reduce the population to a sort of moral *caput mortuum*, and to render the loss of those motives, by which activity was communicated to society, more sensibly and universally felt. Instead of all those splendid objects which were open to the ambition of the people, and of all those sources of wealth which at once roused the cupidity of the aspiring, and diffused plenty among the humble, which filled the country with princes and with nobles, and beautified its surface with palaces and gardens, with reservoirs, and with stately monuments of the dead, we have given them tranquillity ; but it is the tranquillity of stagnation, agitated by no living spring, unruffled by any salutary breeze, and prone to corrupt into every vice, or to ferment

\* See Note (H.)

into every baneful and pernicious excess. It is a perilous, or rather an impossible attempt, to repress, by any forced arrangements, the operation of all the active principles of human nature among a population of eighty millions of men. These principles cannot be extinguished in the human constitution, nor rooted out of the bosoms of mankind ; and if deprived of those useful and natural objects, on which it was intended they should exert themselves, they will find in time occupation for themselves, at whatever expence it is to be obtained. It is a great mistake to suppose that the privation of positive evil, could it be afforded, is sufficient to tranquillize a people. Seasons of suffering call forth only the passive qualities of human nature in a country in a state of depression. The famines which desolated Bengal, though arising directly from the oppression of the Government and its agents, or from unjust and unequal taxes, have roused the people to no acts of rebellion. \* It is the craving appetite of the ac-

\* A remarkable proof of this passive resistance occurred at Benares at the time when Government attempted to introduce a house tax, I think in the year 1809 or 1810. This tax is recommended by Mr Smith, as one of the best and most equal that can be imposed, as it evidently is, in a state of society that is advancing in wealth, or even stationary ; but the very causes which recommend it in such cases, render it particularly oppressive among a population, where the wealth of the upper classes is declining. The house which a man has inherited from wealthy ancestors, and

tive principles of human nature themselves for occupation, that is the mainspring of exertion. It is the need of strong excitements to the daring and enterprising, to whom repose is suffering, that is the source of commotion which we have to fear ; and in such a state of society as exists in India, how likely are such characters to be formed ! Where the insuperable obstruction to the demand for labour, and the facility of procuring the necessaries of life, leave people of every description a great portion of their time at their own disposal, what are the materials which furnish food to their imaginations ? It is the romantic exploits and successful ability of such men

which only serves to shelter and conceal from the eye of the world, the poverty and insignificance to which he has sunk, is a cruel criterion by which to estimate his power of bearing taxation ! The whole population of the town, as soon as its operation began, peaceably abandoned their houses, and, like the Romans, in their secession to the Mons Sacer, took up their abode in the open country. They organized a regular police, of which the Thieves \* were the police officers, and no disorders of any kind were committed, but all the business of life in this great city was for a fortnight at a complete stand. By the ability and prudence of one man,† the people were all brought quietly back to their habitations, without the loss of a single life ; and Government had the wisdom and moderation to abandon the tax.

\* The Thieves, in India, like every other possible occupation, are a sort of caste by themselves.

† William Wilberforce Bird, Esq., for many years judge and magistrate of Benares.

as Sevagee and Aliverdi Khan ;—it is the splendour of the reign of Aurengzebe ;—it is the munificence of their former nobles ;—it is anecdotes of prowess and of profuse generosity,—and histories of the almost constant revolutions to which the country has been subject. On the other hand, the idea of allegiance or fidelity to a particular family, or to a particular government, are unknown ; the people are ready to acknowledge the right of any individual who is able to maintain it ; and accustomed in the past periods of their history, to see men rise from the lowest classes of society to empire, they naturally consider the title of any enterprising leader to power, as preferable to ours.

If we look at those causes which have hitherto averted dangers of this description, we shall find them to consist almost entirely of such as must cease to operate, or whose operation must greatly diminish. The outlet, which war and combination among the different principalities has hitherto afforded, is at an end ; the memory of our successes will fade, and the vast disparity of our numbers, and our absolute and total dependence on the native army in our service, are facts which cannot continue to be presented to the observation of the most ignorant people, without, in time, producing their effect. \*

\* Nihil rerum mortalium tam instabile ac fluxum est, quam fama potentiae non sua vi nixæ.—Tac. Ann.

It cannot, therefore, be considered, that all that has been done has placed us in a state of security. It has, indeed, put a period to the form in which danger has hitherto appeared ; and Lord Hastings' administration had secured for us a precious period of repose, which, if rightly improved, might have prevented that which it is likely to assume. If we look to those considerations of commercial intercourse in which our connection with the country began, they point precisely to the same conclusion which these observations are intended to suggest. We took up arms, in the first instance, to secure a free inlet for our trade. The whole of India is now open to us in every direction ; we are absolute masters of the greater part of it, and our influence is undisputed over the rest ; so that, if our commerce has declined, the source of that decline must be sought for in other causes than those which further conquest will remove. The decay of our trade is, in a great measure, to be ascribed to the derangement already hinted at, which our system has produced in the distribution of capital, and the prodigious drain upon the sources from which it is supplied. But how small a commerce has India ever maintained, compared to that which it is capable of supporting ! and what, let me ask, is the policy which an enlightened regard to our own interest and the welfare of India would recommend ? Would it not be to consolidate our power over the vast territory we

have already acquired ; to connect ourselves with the inhabitants by durable and natural ties ; to restore, by slow degrees, (for suddenly it cannot be done) a healthful action between the great principles of national prosperity, the accumulation of capital, the demand for labour, and the productive powers of industry ? Would it not be to disarm the habitual jealousy of eastern states in the countries by which we are surrounded, not by vain professions of moderation, belied by the whole tenor of our conduct, but by exhibiting, practically, steadily and invariably, that we wish to meddle no further in their domestic concerns, and to found on the confidence which the experience of our sincerity must beget, that extensive command over the commerce of the East, which our situation enables us so easily to obtain.

It is at this juncture, and in this state of India, that we have undertaken the invasion of Burmah. Of the nature of that step we shall best be able to judge, by considering it in two points of view, as a measure of policy, and as a military operation. It is not at all intended to dispute the necessity which may have existed of resorting to hostilities, or the paramount duty imposed upon our Government of affording effectual protection, from foreign violence, to the people whose public revenue we have appropriated, and whose arms we have taken out of their hands. But my object is to show, that we are now arrived at a point when

that view alone ought most religiously to limit all our wars ; and that a departure from this principle, will carry along with it its own punishment.

As a measure of policy, the merits of this war may be estimated by the advantages to be gained by success, compared with the consequences to be apprehended from failure, and the probabilities of the one or the other of these results ; but, failing or succeeding, an objection lies to it, *in limine*, as a departure from the only safe principle on which our foreign policy can rest. If we pass, in the progress of aggrandizement and aggression, that impregnable boundary within which we are secure, where are we to end ? unless, like the Medes and the Persians, we are to extend our ambition to the conquest of Asia. The difficulties of the frontier, by which the countries are divided, may be sufficiently understood from the fact of our transporting our troops to the scene of action by sea, and supporting the war by a sea communication ; but had the frontier been open, it would have been better to have fortified the whole line, from the Garrows to the sea, than to have carried an army into the enemies' country, with a view of reducing it to subjection. Nature, however, had rendered any such measure unnecessary ; the country is, in general, covered with thick and impenetrable jungle. From the elbow of the Burhampooter, downwards, the hills, though less lofty, continue to the coast, to the southward and

eastward of Islamabad ; and between this country and our more interior provinces, come all the multitude of streams by which the waters of the Ganges and Burhampooter are disembogued. In all this line, there is, I believe, but one road communicating between the territories, and that a very bad one, through Sylhet ; and, if there be any paths by which small bodies might have passed the limits, they cannot be numerous ; nor could the danger to be apprehended from such incursions be serious. The facilities to defensive operations were therefore great ; bodies of cavalry, stationed at those inlets where cavalry could act, and of light-infantry where they could not, must have afforded a certainty of cutting in pieces whatever dared to violate the security of the British territory ; and, by blockading the mouths of their rivers with a few small cruisers,\* they might have been taught, at little expence, how easily we could make them feel the evils of provoking our enmity. As for their contemptible boast of marching a force through India to the conquest of England, it surely deserved only to be treated as a proof of the pitiable folly and ignorance that was, in truth, just as capable of accomplishing the one part of the threat as the other.

On this frontier, then, we could easily prevent

\* The reduction of both Rangoon and Martaban were obviously within the means of such an armament.



any serious impression being made—let us see what was to be expected by advancing beyond it. The country, which constitutes the Empire of Burmah, stretches from the ninth to the twenty-sixth degree of north latitude, and in its greatest breadth from  $92^{\circ}$  to  $104^{\circ}$  of east longitude. Its length is upwards of 1000 miles, and its mean width between three and four hundred. On the west (to the southward of our frontier) it is bounded by the sea, and to the north by Assam and Thibet; and it is in contact, on its other side, for a great extent of country, with the Empire of China, the Cochin Chinese,\* Siam, and Malaya. It comprises the former kingdoms of Arracan, Pegu, and Ava, and a considerable territory conquered from Siam. It is computed to contain about sixteen millions of inhabitants. This may be an exaggeration; but there is no reason why it should be so, for the country lies in a climate favourable to a much denser population. It is watered by many noble rivers, and large tracts are under a rice cultivation. Of the surrounding states very little is known, but their universal jealousy of all foreign intercourse; and that, among the Cochin Chinese, there has always been a considerable French interest, founded by the missionaries.

Such is the new theatre of action, on which

\* What is represented as Tunquin in the maps, has been conquered by the Cochin Chinese, and is part of their territory.

we have entered in the East. It is sufficiently clear, that, were we to succeed in obtaining military possession of the country, there are but three uses we could make of the advantage ;—either to dictate terms of peace—to dismember the empire, and revive the former principalities, of which it is composed—or to retain the country as a conquest. What objects we should propose, in the first of these cases, to ourselves, as a compensation for the expence and hazard of the war, it is difficult to conceive. In all the wars which we have hitherto waged, we have had to deal with a population similar to that which our own territories contained, and accustomed to see the limits, by which the country was divided, in continual fluctuation, and consequently habituated to coalesce under the influence of any power, which should alter the existing boundaries of states. Their religion was the same with that of our subjects, and their language, or some common tongue, already spoken by the natives of our adjacent territory. The country was either cultivated, or susceptible of cultivation, on the terms established in our provinces,\* and every accession was a real accession of strength. The army which we maintained was necessarily

\* We took besides a more effectual method of ascertaining the value of our conquests than that of land measurement and an estimate by the square mile ; we always stipulated for our indemnities in land, paying to the Government so many lacs of rupees annual revenue.

regulated by the dangers from abroad, and the power which might be combined against us ; and without augmentation, might readily be applied to the retention of additional acquisitions. Every tract of country, therefore, which we gained within the Peninsula, diminished the force whose influence we had to apprehend, while it added in the same proportion to our own ; and was really and effectually “an indemnity for the past, and a “security for the future.” Nothing of this sort is possible with the Burmese. They speak a different language, are of a different religion from the inhabitants of India, and are visibly an entirely distinct race. Their country is regulated altogether upon different principles from those of the Mogul Empire, adopted by us ; and were we to appropriate any part of the territory, it must necessarily be retained in union by force, or the population expelled and replaced by a colony from Bengal ; a difficult, if not an impossible measure. A new and open frontier would, in both cases, be exposed to the enemy, who, on every occasion, would endeavour to recover his possessions, and with whom no durable repose could be obtained, till we had acted over again in this country, under all the disadvantages of adding progressively to a burdensome foreign dependence, the same scenes that our Indian history displays. There is no reason to think that we could materially improve the frontier by any small additions, and

if we could, I am sure that any such benefit would be tenfold overbalanced by the perpetual hankering of the native government to recover them, and the ready pretexts they would afford for hostility, should we ever be found sufficiently occupied elsewhere. But were such benefits clear and unequivocal, can they for a moment be put in competition with the evils attending a war such as that in which we are engaged.

Were we to attempt to exact from the enemy, as a condition of peace, a pecuniary compensation for the losses of war, we should find it impossible to indemnify ourselves in this way. The country has none of those sources of wealth which existed in India; where the industrious habits of the people, and the long period of successful commerce which they carried on with all the world (while, as yet, the prolific powers of machinery had not come in competition with the perfection of their manual dexterity) poured, from all nations, a continual stream of the precious metals into the treasures of her princes and her temples, the great reservoirs, where they continued to stagnate till some sudden emergency called them forth, or the rapacious hand of an invader was invited by the spoil. \* The Burmese are precisely in that state

\* The enormous amount of plunder said to have been found in these reservoirs, by the first Mahommedan con-

of society in which they have little to lose but their lives or their liberty. The exportations are almost solely the rude produce of the country, and of that description which it requires no labour to raise. Their taxes are almost entirely paid in kind, and necessarily exchanged for the labour required in the service of Government. Supposing, therefore, our success the most complete ; supposing that we had obtained possession of the country, and of the person of the King, I do not see what benefit we could derive to compensate for the war, from the most absolute power of naming our conditions. Such a conclusion would, no doubt, save the credit of our arms; but it will not, it may be supposed, be urged as a satisfactory account of the policy of a war, that we

querors, has been called in question, but there is hardly any degree of wealth that can be ascribed to these deposits that would be incredible ; “ nor does there seem to be any necessary bounds (says Mr Hume) set by the nature of things to this practice of hoarding. A small city like Geneva, continuing this policy for ages, might engross nine-tenths of the money of Europe”† The returns to the immense commerce India, in all ages, maintained, have invariably been in the precious metals. These are nearly inconsumable ; and by a very short process of circulation, they found their way, either to the priests or the princes, with whom they remained for ever. If the extent of the influx, and the length of time it may have been supposed to operate, be considered, even the extravagance of an Eastern historian may be true.

† *Essays.*

engaged in it for no other purpose, than that we might, in the end, get creditably out of it. \*

We have now to consider the prospects the second arrangement holds out, that of dismembering the territory and parcelling it out into separate kingdoms. Such a measure would, it is to be presumed, proceed on the supposition, that, by so doing, we should diminish the power of our neighbour, and so render his efforts against us less formidable. But a state, far more powerful than the Burmese, and in a much higher state of civilization, could make no impression on such a frontier as that which they have to surmount, in opposition to the resources of a Government like ours. To equip and to march a numerous army through intricate defiles, where the road must be made; to pass many rivers, and to keep open the communication, and maintain themselves in our country, is an effort that would not be easy to the greatest State and the best military talents in Europe, and quite beyond *their* power. The difficulty which *we* find in invading their country, across such a frontier, is abundant security against the danger to be apprehended from

\* “ For it ought never to be supposed, either by those  
 “ who preside in states, or those who are willing to decide  
 “ with truth concerning the manner in which they are ad-  
 “ ministered, that the sole end of war is victory. No wise  
 “ man ever attacked his neighbour for the sake only of re-  
 “ turning superior from the field.”—Polyb. book iii cap. 1.

any attempts of theirs. That, by any dismemberment, we can diminish the chance of plundering expeditions, invited by the superior wealth of our provinces, is not to be expected. The means of preventing such an evil, in times of peace, must depend very much on the means of restraint which the Government of the country itself can exert over its subjects, and, consequently, on its power and its vigour; and we might be always sure of compelling it to exert that power, by exacting from it an indemnity for the damage incurred, or by such retaliations as blockading their rivers, ravaging their coast, or burning their sea-port towns, till satisfaction was afforded.

Among the sources of tranquillity to a frontier, like that which divides us from Burmah, an efficient Government on the other side of it, capable of being rendered responsible for the acts of its subjects, will be found not to be the least; and the vigour of such governments as exist in the East, are, within certain limits, almost always in proportion to the extent of territory, because, being merely governments of force, the power they can exert bears by so much the more a greater proportion to the resistance excited by local causes of dissatisfaction. Were we to dismember the territory, the country lying along our frontier would either be left under one state, or it would be divided. In the former case, I can see no difference that would be produced, except

that the Government would be weaker and less liable to retaliation elsewhere ; and, in the latter, that, in addition to these disadvantages, we should have two or more Governments to deal with instead of one.

It is in vain to suppose that we can ever place the frontier of India, or any frontier whatever of such vast extent, bordering on rude and imperfect governments, on such a footing of security as will prevent occasional acts of violence, or avoid the necessity of recurring, at times, to defensive operations. There is scarce any country so inhospitable as to be entirely destitute of inhabitants ; and the less dense the population, and the ruder their soil, the less are they likely to be amenable to restraint, and the more will they be tempted to satisfy their wants by the spoil of their wealthier neighbours. But on the whole surface of the earth, there is probably no frontier of equal extent, so little liable to these evils as that of India. The districts on the banks of the Indus support no population, and the inhabitants of the mountainous districts, cultivate their valleys, have no wandering habits, and are too destitute of horses to render pillaging operations formidable, were they ever to attempt them ; or to save them from our cavalry, by whom they must be cut in pieces, the moment they came down into the plain. If we are not to stop here, and con-



tent ourselves with defending what we have got, I ask, where are we to stop?

We have hitherto considered the measure of dismemberment, merely as it is likely to affect the purpose of affording tranquillity to the frontier. Let us now consider it with respect to some of the consequences it entails.—We should, it may be presumed, think it just and expedient, according to our established policy, to form treaties of alliance with the several states which we should erect, otherwise they would be in hourly danger of being over-run the one by the other, and the families we had placed on the throne murdered or expelled. To manage their several relations with each other and with us, we must therefore have recourse to residents at the different courts. We must be ready, upon occasion, to support the state attacked, against that which will not listen to our mediation; and thus, over the whole of this vast territory, we shall be involved in a system of eternal discord and arbitration, like that from which we are just escaping in India. Nor does the evil rest here. The parts into which it will be divided will be unable to maintain their independence against either the Chinese or Cochin Chinese, and we shall thus be involved in a labyrinth of foreign connection and foreign dissensions, to which no termination can be foreseen.

But were these evils not likely to result from the plan of dismemberment, it would be objec-

tionable, from its interference with the only line of policy, from which we can ever hope to reap the commercial advantages which our situation in the East is fitted to insure. The aggregation of territory, to a considerable extent, is one of the most certain means by which, in communities such as exist in the East, the improvement of society is promoted. Its influence on the energy of the governing power has already been alluded to, and whoever will attend to the change produced in the condition of Egypt, (a fact more familiar to many, perhaps, than examples drawn from the remote regions of the East) by the efficient authority of its present ruler, will be satisfied how much more useful the vigour even of the worst Government is, than its weakness. Besides, while the States, under which a rude people are united, are small, the whole territory is continually subject to experience all the evils of war, and every man must be by profession a soldier. Towns cannot grow up; the arts of life can never arise; and the only qualities held in esteem are the ferocious habits engendered by the constant endurance or infliction of misery. The influence of the seat of government, as the scene of the disbursement of the wealth of the state and of the sovereign, is almost the only principle by which men, in such a state of society, are collected together in cities. The capital thus naturally increases with the extent of the state to which it

belongs. It is there that some emulation takes place among the princes and the nobles in expenditure.—It is there that the changes of habit are introduced, which are afterwards the object of imitation at the inferior courts; and that an elastic principle is communicated to human wants, the great mainspring of all improvement. Are we, then, instead of fostering the progress of civilization among the surrounding nations, and endeavouring to rear them up into communities, with whom the usual beneficial relations of intercourse may be established, to take alarm at the first advances they make towards amelioration, and to employ our force to retain them perpetually in a hopeless condition of ignorance and barbarism?

To conquer the country, and keep it altogether, is certainly, of all the objects that can be assigned to the war, the one in vindication of which the least can be said. In order to get rid of the inconvenience of defending a small and difficult line of frontier, liable only at the worst to trifling irruptions, and close to all the resources of our power, we should have a frontier incomparably more difficult to defend than all the frontiers of India together. We should come into contact with Siam, Cochin China, Thibet, and Assam, and from the least of these should be more open to inroads on our new possessions, than we are at present from Burmah.

But, if the object is injudicious, it is also unat-

tainable ; we could not retain permanent possession of the country, nor attempt to do so. We cannot organize a native army of Burmese, as we have done of Indians ; nor has the country resources to maintain the establishments \* of such a force. In India, the spirit of caste is substituted for the spirit of patriotism ; the community to which a man belongs, and with which he is identified, is not the inhabitants of a particular portion of the country, but a particular portion of the inhabitants of all parts of it. The social ties, by which mankind are united, are woven by their institutions with indissoluble strength, as far as the members of a village are concerned ; beyond that, they are wholly enfeebled ; and, provided the villages are kept entire, it matters very little to their members by what power the functions of government are carried on, or to what districts they are annexed. To the influence of such causes in destroying the interest of the people in the independence of the country, must be added the existence of a caste, whose peculiar profession was arms, which had long survived the integrity of the condition of mankind to which it was adapted, and the kindred government it was intended to defend ; accustomed to sell their services to

\* I do not know if this use of the word *establishments* be a legitimate one, but it is correctly applied to the Indian army at least, where the details of every department in the service are called its *establishment*, and are so designated in the accounts, and in all official documents.

whoever would employ them, and to adhere, with scrupulous fidelity, to those whose *salt they had eaten*. They communicated the same principles of action to all who adopted their profession, and thus rendered it easy to organize a force which could be safely employed as the instrument of subjugation. The condition of society in Burmah presents no advantage of this sort. If we conquer the country, it must be by our own means ; and if we keep it, by our own means must we retain it. To maintain a force in that country from our present possessions, capable of holding it in subjection, is quite beyond our power. The most favourable statements of the Company's profits and revenue pretend to no more than its barely repaying the current expences of Government, and the dividends of the Company's stock ; but if we could maintain an army of fifty thousand men in the country, it would be inadequate to the purpose. In order to maintain tranquillity, it must be spread over these wide regions, and would be dissipated and dispersed in portions too small for its own security, or retained in masses that would be effectual only in their own neighbourhood ; to say nothing of the defence of a frontier conterminous with five several kingdoms.

From this view of each of the three lines of policy we might be disposed to adopt in the case of success, there seems to be little benefit to be gained by either. Whether we fail or succeed, the ef-

fect of the war must be to spread widely the alarm of our subsequent views through all the countries of the East, and to increase greatly that jealousy as to an intercourse with Europeans, which has hitherto been the great obstacle to the valuable commerce which these wide and populous regions of the earth are capable of maintaining. It appears, that the Chinese have already taken measures to fortify their frontier with Burmah, and we may be assured that the apprehensions excited among the feebler states is not less great. The interest which their fears must give them in the passing transactions, has necessarily fixed upon us in this war, not the eyes of the principalities of India alone, but those of the kingdoms of Asia; and whether we go on or go back, it must unavoidably be productive of evil. It must already have shaken their reliance on our protestations of moderation. It will probably inspire them with the same spirit of combination against us, which we have experienced within the Peninsula, and which is, in all states of society, the natural resource for supplying any apprehended deficiency of individual strength among nations. If we abandon the country, without obtaining some signal and decisive success, we shall cast a shade upon our arms, and appear to have undertaken a task that we were unable to accomplish. It is known that we have invaded the country; a measure that will be ascribed only to the view of making a conquest;

and if we retire, it will be difficult to make it appear that we have not been driven out of it.

The one only advantage which can, with any shadow of reason, be expected from it, might be a stipulation in a treaty for a freer admission of commerce; and perhaps, some present benefit might be derived from it, though a most inadequate compensation at the best for the expence of the war. The bayonet is a bad instrument for the introduction of trade, as we have experienced in India. The moment our force was withdrawn, the treaty would be eluded. Restrictions would be revived, and th. more particularly directed against us, that we had compelled their removal; and unless we were prepared at all times to enforce the observance of the treaty, it would be found perfectly nugatory. There is, in fact, no trade to be carried on with an *independent country*, but upon the conditions which it is pleased to impose; nor any way of overcoming the absurd restrictions with which, in rude conditions of mankind, it will shackle its commerce, but by its own gradual experience of the benefit it derives from a more liberal spirit, and the influence which its merchants cannot fail to acquire in the regulation of this part of its policy. Could we have the moderation to content ourselves with the honour of victory, although but a barren result to the war, and take the first opportunity which success may afford, to put an end

to hostilities, and leave the country to itself, the expences of the war might limit its evils ; and the manifestation of our power to humble the presumption of an arrogant nation, if it spread some alarm among surrounding states, would at least keep alive their respect for our arms.\*

It remains now to speak of the invasion of Burmah as a military operation ; and here, it will be necessary to premise a few observations as to the description of troops with whom that operation was to be undertaken, and the nature of the previous foreign services in which they have been induced to engage. It had been the object of the early Hindoo lawgivers, to preclude the inhabitants from quitting the country, and they had therefore confined them as a people between the Attock (or forbidden river) and the sea ; their migration in any other direction being prevented by the obstacles which the country presents, and the impossibility of preserving their habits of life. The difficulties to their undertaking a voyage by sea were further increased by the nature of the observances which they are obliged to practise. They are prohibited from eating, or even touching animal food. Every man must cook his vegetable diet for himself, and must cook it on land ; and the constant ablutions in rivers or ponds, which they are required to practise, are, on shipboard, out of the question. Notwithstanding all these objec-

\* See Note \* at the end.



tions, apparently so insurmountable, by judicious management and the good will of the troops, the reluctance of the Sepoys was overcome. Vegetable food, that required no cooking, or as little as possible, and quantities of ghee, or clarified butter, were prepared for them, and by various devices, they were enabled to satisfy, or to elude their restrictions. Government never required them to embark, as a duty they were bound to perform, or ordered particular regiments upon the service; but accepted their voluntary aid as a grateful mark of devotion to its interests. It was, in fact, a service entirely optional with the Sepoys. Instructions were sent to the commanding officers of regiments to induce as many of their men to go as possible; some enterprising and popular European officers turned out for the expedition, to oblige whom many of the men followed the example, and by their persuasion others were incited. These drafts were afterwards incorporated into volunteer battalions, the whole temporary promotion of each of which went among its members.

In all the former expeditions on which they had been employed,—those for the reduction of the foreign European settlements, and the expedition to Egypt, the service was necessarily of a nature to be speedily decided. In the latter case, the French, cut off from all reinforcements by our superiority at sea, at variance with the people of the country, and assailed by the con-

centration of the English power from the Eastern and Western hemispheres, must have rapidly sunk, with whatever fortune the first battles had been fought. In the case of the foreign settlements, being commercial establishments, their wealth was necessarily concentrated at the seat of Government from which the shipments were made; to save which, the enemy were always sure to interpose whatever force they had, so that we had it always in our power to bring the matter to the issue of a decisive battle, by marching straight upon the capital; and in this manner every one of the captures were made.

In these cases, therefore, no protracted series of operations was to be apprehended, which could subject the troops to any continued warfare, destitute of the conveniences to which they had been accustomed. It is sufficiently known, that an East Indian army is habitually attended by an immense concourse of camp-followers. Three camp-followers to one fighting man, is certainly, in Bengal, a moderate average. Such have been the habits of war in the country, from the earliest times, and the effect of long experience has been to mature a system of purveyance by which it is rendered perfectly convenient. The establishments of travelling grain-merchants and moving bazaars, connecting themselves with all the subordinate descriptions of industry in the country, make an Indian camp, like a shifting city in

which all the wants of *native* life, are as well or better supplied than in the cantonments of a regiment. The sudden and severe privations to which the Sepoy has been, at times, exposed, have been borne with amazing patience; but the restrictions of caste render him dependant on the labour of many others; and neither by religion or physical constitution, is he qualified for contending with continued hardship.

The nature of the country, for the invasion of which a force composed of such materials is to be employed, is the next point for consideration. It is eleven hundred miles long, three or four hundred broad, intersected by many large rivers, imperfectly cultivated, and covered in many places by immense forests. It is destitute of forts, or strong places of any sort, like those common in every part of India, which our superior military science enabled us to reduce, and which, once in our possession, were impregnable in our hands.\* The cities are chiefly built of wood, and their possession or destruction would entail no military consequence beyond the loss of property it might occasion to the enemy, and the moral effect of the impression on their minds. There is no wealth to stimulate the ardour of the soldier, or to reward his toils. The country is known to be excessively deficient in beasts of burden; it is subject to the periodical rains common in tropical

\* See Note (I.)

regions, and to extensive inundations ; large tracts of it are flat and marshy, and cultivated with rice, and the branches of the separate rivers run into one another ; wheel-carriages are not in common use ; and the roads are few and bad. The cultivation is not continuous ; but carried on in the open spaces, best adapted to the purpose, the inhabitants of any one of which may easily retire, or be driven away to another, and the crop destroyed if it cannot be removed. A country of such a military character as this, is the best defence an uncivilized people can possess. \* There is nothing in it tangible for a regular army ; no footing in it, by which it can make good the ground which it acquires. There is none of the machinery by which it operates ; no *points d'appui* ; no *depôts* for the formation of magazines, or the reception of the wounded and the sick, or on which a beaten or exhausted division may fall back. There are no roads ; uncertain supplies : and unless the enemy commits the error † of com-

\* The enemy who most effectually baffled the power of Rome, was not the civilized kingdoms of Asia, nor yet the lingering spirit of freedom, and military genius of Greece, but the savages who defended the swamps and forests of Germany ; an enemy—" qui non primordia populi Romani, " sicut alii reges ducesque, sed florentissimum imperium " lacerassierit ; præliis ambiguus—bello non victus."—TAC. See Note (K.)

† Since these pages were written, it appears that the enemy has committed this error ; what the result may be, on

ing to a general action, or risks one to save his towns, no series impression can be made upon it. A warfare in such a country must necessarily be laborious, and attended with many duties of fatigue to the troops, independent of their marches and their battles ; provisions must often be carried ; stores must be brought up ; they must hut themselves in the rains ; roads must be made and repaired ; and none of these duties will the Sepoys willingly perform. To carry with them the comforts to which they have been used in the military service of their native country, is impossible ; and therefore any protracted operation, or any distant inroad, must be attended with difficulty, and much dissatisfaction. All these disadvantages must be greatly increased by the necessity of supporting the army by a sea-communication ; supplies must be forwarded to the fleet, and the fleet must be converted into a floating arsenal, from

the issue of the war, must depend on the pertinacity with which they are disposed to defend their freedom ; that the loss of five or six thousand men, from an army of sixty thousand, and among a population of sixteen or seventeen millions, cannot exhaust their means of resistance, is evident. The loss of arms may be more important, but if they can equip small bodies, and are compelled to act on the defensive, it may make them discover (what their want of experience, and the hurry of a rude people to get their enemy out of the country, has hitherto prevented them from seeing,) that time and disease are more powerful auxiliaries than cannon, in *their* hands.

whence the advancing army must bring up its stores and recruits, and with which it must keep the route open. It is said, that the object in transporting the army by sea, was to send it up the Irrawaddy, in boats, for the reduction of Ummerapoora ; but how was a communication for four hundred miles to be maintained up a river of great rapidity ? and where were craft sufficient for the transport of a force at all adequate to such a purpose, or that could be safely committed so far in the enemy's territory to be found ? The only way of commanding the navigation of a river is by getting possession of its banks ; and that, in the present instance, is tantamount, very nearly, to the conquest of the country.

If the country was to be invaded at all, the better way would, probably, have been to march an army by the route through Sylhet. There can be no doubt that the resources of the Company's territory are perfectly adequate to force an army over all obstacles to Ummerapoora ; as it advanced, additional means might have been supplied from the rear, to keep up the communication : we had, at no great distance on the left, for part of the way, the territory of Assam, which would, at least, have been neutral, and, probably, friendly,\* if we appeared the winning side. If

\* It is not at all meant to say, that the left of the army could have derived any material support from Assam ; but

we kept steadily gaining ground, as we must have done, the enemy would naturally be inclined to concentrate his force between us and the capital; and if another army had come from the lower provinces, to act on the right of our communications, a force from our own territory might easily have been applied to keep it in check. To march a force, with safety, three or four hundred miles into an enemy's country, capable of supplying, only very partially, its wants, must be an expensive operation; but it is, no doubt, to be done, if adequate means are employed. How far such a measure would be decisive of the result of the war, is another question. If the enemy remain united, avoid coming to a general action, and resign the capital to its fate, in a country of such extent, and such physical difficulties to a regular force, the whole power of India could not reduce

the intervening country is too narrow to admit the existence of any force supplied by its resources, acting on the north side of an advancing army.

It appears that the Indian Government have proposed to act against the enemy in this direction, as well as through the frontier of Cuttack. These measures must doubtless, if successfully executed, enable us to make a more effectual impression on the country; that is to say, to march further into it, and distress the enemy more, and consequently increase the probability of obtaining peace on our own terms; but in what way we are to secure our conquests, or subdue the country, if the people trust to its natural strength, must be as doubtful as ever.

a population of sixteen or seventeen millions, or of half the number, to subjection. That it is reasonable to reckon on the commission of many errors, by such an enemy as the Burmese, I readily admit. A rude people are more swayed by circumstances than by maxims of policy ; but the circumstances of their situation are those which would lead them, in this case, to do, in most instances, what wisdom would dictate. They have little wealth that they cannot carry away : their houses are of wood, or mats, and easily rebuilt ; and the example of India has made a deep impression on the nations of the East. If they risk a general action, and are defeated, as they certainly would be, it might subdue their minds, or it might not. The expence, therefore, of the military operation of getting possession of Unmerapoora, must be great,—its influence on the fate of the war very uncertain. That the enemy may divide, and a portion be induced to side with us ; or that they may attack us with the whole force they can bring into the field, and be crushed at a blow ; or that their spirits may sink by continued reverses or on the fall of the capital, are possible contingencies. That some of them may occur, to put an end to the war with credit to our arms, is most earnestly to be wished, and that we may derive from it the only advantage it is capable of affording,—that, of a lesson of the folly of all foreign hostilities.

The only event that can be quoted, with any



appearance of similarity, as a precedent, is the invasion of Nepaul, during the administration of the Marquis of Hastings. The cases were the same, in as far as little additional revenue was to be looked for from cessions of territory ; but in all other respects, the contrast between the circumstances is remarkable. Nepaul is a narrow tract of country, of seventy or a hundred miles broad, lying between the valley, or great plain, of the Ganges, and the insuperable mountains of Thibet. It consists itself of mountains that, like the Jura in Europe, seem formed from the washings down of the larger ridge, at the base of which they lie. These hills terminate abruptly in the plain, in a well-defined outline ; are generally covered with wood, and the wood extends into the level country for ten or fifteen miles, forming what is called the Great Saul\* forest. Beyond this, the Nepaulese had a portion of cultivated country, of perhaps similar breadth, separated from the Company's territory by an imaginary boundary, crossing, at right angles, all the streams which flow into the Ganges. The countries were contiguous for eight hundred miles, and the Nepaulese were rapidly extending this line, in both directions ; threatening to cut off the communication between the Company's dominions and all the commerce which might

\* Saul,—the name of the prevailing tree of which it is composed.

eventually be opened with Thibet, Tartary, and the Eastern nations.

It is perfectly clear, that it was possible to paralyse at once the efforts of a country of this description, by pushing into it with rapidity a variety of separate columns, supported on our own territory; and that the enemy, distracted by an attack in so many points, could never concentrate from a scanty population a formidable force any where; while, by opening the communication between the columns, the country would be wrested from them entirely. Such was the simple and soldier-like plan of the Marquis of Hastings. That it did not produce its complete effect, was owing to causes over which he had no control.—A defensive war, in this case, was out of the question. The whole force of the Company's provinces could never have provided, by defensive operations, for the security of a frontier of eight hundred miles in length, in an open plain, without a hedge, and without a stream that was parallel to it. There was every prospect that the enemy would reduce Cashmere on the one side, and Assam on the other; and it was most desirable to stop their progress. It was certain, that they would avail themselves of the opportunity that would be afforded by the employment of the Company's forces in the meditated reduction of the Pindarees; nor could that measure be attempted, while

a frontier of such length was left open to their incursions.

When, therefore, the Government was forced into a war, here was a plan that promised and deserved the most complete success, and that could not, by possibility, fail entirely; and here were wise and legitimate objects to look to as the fruit of victory. And every one of them was obtained. It never was the intention of the Marquis of Hastings to destroy the independence of Nepaul, as a separate kingdom. He was too wise to remove a barrier of such value, interposed between the British possessions and the dependencies of China; but they were deprived of every foot of territory they had in the plain below the forest, the edge of which was rendered the boundary; and independent states were erected out of their hill country, on either flank, and taken under the protection of the Company, to prevent their further extension. In military geography, no two cases can be supposed, more directly opposed than Nepaul and Burnah. The one is a narrow strip, hemmed in, along with us, by the same impassable rampart, with an immense frontier open to it in front; and no depth. The other is a country lying beyond the natural limits of India, touching on our possessions but for a small portion of its length, and that on a strong natural frontier; and opening behind into vast regions; with great rivers, presenting so many successive lines of defence, and con-

necting itself, by neighbourhood, with many powerful kingdoms.

These remarks are not pointed particularly to the war with Burmah, further than was necessary to apply the general principle to the particular case ; and there is hardly an objection that has been stated, that would not be conclusive, with equal force, against every offensive operation of magnitude beyond the limits of India. In the perpetual fluctuation to which our counsels in the East are subject, it is not wonderful that they should be destitute of a steady perception of our situation, or undirected by an uniform and consistent system of policy ; or that the individual entrusted with the administration of our affairs should, before he is aware of his ground, commit the country in a war, of the real consequence of which he may be ignorant. If I could suppose that these pages were ever to obtain the attention of those by whom the destinies of India are decided, I would implore them to profit by the past experience of our history, and to weigh well the situation in which we stand :—to consider that we have now reached a point, in which the views of those who have all along protested against the process of aggrandizement, and the views of those who have urged the necessity of acquiring power, that we may be safe, at length concur ;—and that, if the Government at home does not supply the want of fixed principles in the Government abroad,

and frame orders that shall not be disregarded, against firing a shot beyond the confines of India, but in the pursuit of an aggressor, we shall be involved in a sphere of action which can never again be confined. Cooped up within the same limits with the native states of India, we had no option in interfering with their concerns ; and an infinite variety of circumstances facilitated our success, which are all adverse to us in operations on a foreign soil. The manners, the habits, the institutions of the people, who must be our instruments, disqualify them for a struggle out of the territory to which they belong : and the boundless resources which the country ministers to war, are of that local nature that bear but little on distant hostilities. India has, accordingly, been many times conquered ;—in the whole period of her history she never made a conquest.

And surely, there is wherewithal in India to satisfy the highest ambition. The government of a great and populous country is at any time a task commensurate with the highest qualifications which any man can possess ;—to govern a country of this description, in which every thing is to do, is a field for the display of ability, and the acquisition of the noblest description of fame, vast as the imagination of man could desire. The process of colonial aggrandizement, which England has pursued, cannot be carried much further. There is obviously a proportion, with reference to

the country to which they belong, beyond which such dependencies become a burden, and we are already beginning to feel that we have passed that point. Every new acquisition requires an effort on the part of the mother country, proportioned to its size and its distance, to hold it in union, which wastes and dissipates her strength by excessive diffusion. The possession of these portions of the earth gives, however, at least the power to improve them : it is time that we should bethink ourselves of the means of turning them to better account ; and if we do not speedily do so in India, the country will be lost, or reduced to a condition in which it will not be worth the preserving.

Whether or not some alteration is to be made in our system of policy is indeed now hardly a matter of choice. By the establishment of a property in the soil among the people, we have laid the foundation of a new state of things in India. A landed aristocracy are rising up, on the future character of which the destinies of the country must depend. The footing on which the tenure of land was to be placed, has given rise to a vast deal of learned discussion and to much useless research. Surely, at this time of day, we need not resort to the antiquated notions of barbarous races to determine the eternal and immutable rights of property. To say that a whole people must live as tenants at will at the caprice of a despot, is nonsense—to practice it is tyranny and iniquity;

nor will all the Hindoos and all the Musselmen that ever existed ever render it one whit the less flagrant oppression—one whit the less obvious impolicy. No usage can sanction it, no antiquity can render it venerable, no prescription can ever alienate the innate and indefeasible right which the inhabitants, under every climate of the globe, have in the land which God has given them. The only question worth our consideration is, what is the most natural and beneficial footing on which the cultivation of the earth can be placed? and the experience of the world has sufficiently proved that to be in the freehold rights of a landed proprietor, and a tenant paying a rent for the usufruct of the soil. When the permanent settlement was established, it was thought due to the interests of the Company, to calculate the portion of the rent or surplus produce, after paying the expence of cultivation, as high as Ten-elevenths of the then actual revenue, for the annual tax or quit-rent payable to Government. It is manifest that a tax calculated at a rate so exorbitant, and liable to such inequalities in the assessment, could not fail to ruin many who speculated in these estates, and compel them to sell their lands; and in fact a very large proportion of the territory so settled, changed hands very rapidly. The new purchaser, however, stood in a different situation; the revenue which he was to derive from his capital, necessarily bore a certain proportion to the interest of money

in the market. If a man, for example, had two hundred thousand pounds to invest in land, and received for it, in the market, the legal Indian interest of 12 per cent., it is presumable he would get 7 or 8 for it by purchasing estates ; but as only one-eleventh of the nett rent was available to realize this interest, the only difference to him was, that he obtained for his money, a wider tract of country than he would have done, had he acquired a right to all that it yielded. There existed nothing, it is true, in the relations established by this measure, between the proprietor and the cultivator, at all analogous to those feudal rights of oppression, which rendered the power of the barons despotic over their dependants ; but the power of property in the soil, over those who live on it by their labour, is in itself great at all times, —in a country like India, where it stands alone, immense ; and without the actual power which it confers, the ties of respect, of neighbourhood, of kindness, and of permanent connection, are sufficient, (where no other source of natural influence exists), to identify the people with their landlords, beyond the power of separation. The produce of an estate, in a country in which improvements in the economy of labour are unknown, may be reckoned pretty nearly in proportion to the number of persons which it contains ; and the population thus subjected to the influence of an individual, is just eleven times as great as if his estate was a



freehold. The great revolution which has thus been effected in the nature of the gentry of the country by the substitution of a landed aristocracy, possessing a source of real and substantial power totally unconnected with the Government, for a body of men whose political consequence and whose very existence were alike dependent on the sovereign, have altered entirely the constitution of society in India; and by the nature of the influence which this new class are to exert on the community, must the future condition of that country be moulded. It is in vain to think that this measure can ever be rescinded, were we unprincipled enough to make the attempt. It has already struck its roots deep into the soil, and may bid defiance to the storm. But it depends upon ourselves whether it is to prove to us like the Upas tree, beneath whose shade we cannot live, or a noble stem for our cultivation, with which our government may be entwined, and on which we may engraft all the fairest fruits of civilized society.

Nec longum tempus, et ingens  
Exiit ad cælum ramis felicibus arbos  
Miraturque novas frondes, et non sua poma.

*Georg. L. ii. l. 80.*

Power these proprietors must possess, and either they will exercise it in a state of the most barbarous ignorance to no useful purpose, or they may be made the means of the civilization of India.

Nor let it be supposed, that the want of improvement will be any security for the continuance of the present passive character of the people. Hardier and more enterprising habits of thinking and of acting, are perfectly compatible with a state of society less civilized than that which exists. The introduction of an order of things more consonant to the principles of human nature must do something of itself in shaking them free from the trammels of prejudice which enfeeble their conduct; and the continued intercourse with Europeans must do more. The measure which introduced this change in the tenure of land, has been, in its general effect, an infinite blessing to the country, by the creation of a permanent interest in improvement, and the security which it affords to possession. A man may now cultivate his property with the certainty that he will reap the reward of his industry. He may plant his own tree\* in the hope of seeing it flourish, and of reposing beneath its shade, and he may build his dwelling in the vigour of his days in the confidence that it will afford an asylum to his family and a shelter to the infirmities of his age. Before its establishment, the most fertile provinces on the banks of the Ganges, were sub-

\* "The orchard is what chiefly contributed to attach the peasant to his native soil. He feels a superstitious predilection for the trees planted by his ancestors."—Colebrooke's Husbandry of Bengal.

ject, under our Government, to almost periodical famines, which swept away millions of men, and villages by thousands ; reducing, in the language of Lord Cornwallis, “ a third of the Company’s territories to the condition of a wilderness, inhabited only by wild beasts.” Since its operation began, these villages have been rebuilt, these wildernesses have been covered with plentiful harvests ; and since that period I do not believe that it could be proved, that in all the provinces of Bengal, a single human being has perished of hunger.\*

But the good which it has done is but little, compared with what it might be made to do. The causes of change are as yet but feebly beginning to operate. The animating principles of the former state of society have died away ; and at this moment all the mainsprings of human conduct are in our hands, and we may make the country and the people what we please. We have already felt the benefit of the outlet which the Continent of South America has afforded to our trade ; but the commercial capabilities of a country are not determined by the extent of its limits alone, nor yet by the riches which its soil may be made to yield. It is the *inhabitants* of a country that must give the power of consumption, and the industry which must afford the means of exchange by which that consumption

\* See Note (L.)

may be supplied ; and within our own provinces in the East, we have a larger population than all the wide regions of America contain, from one polar circle to the other. The population, it will be said, do not consume our goods ; but is it impossible to induce them to consume them ? The craft of a legislative priesthood has fettered, but cannot have extinguished the wants of mankind. The people are still subject to the inclemencies of the seasons,—to the cravings of appetite,—to the influence of vanity,—to the stimulus of emulation ;—and though some of their wants may be less importunate than those of a ruder climate, or more easily satisfied, to a certain degree, I cannot see that it requires less to contend effectually with the torrid heat of a tropical sun, or the torrents which furrow the earth in the rainy monsoon, than it does to shelter and maintain mankind in colder, but more moderate latitudes. These wants have been sufficiently active to carry, in former ages, the luxurious refinements of the East, and the various arts of life, to a degree of perfection unknown to the rest of the world ; and to the same wants that produced these effects we have it now in our power to minister, if we can but set them free. Emancipate the minds of the people from the moral thralldom in which they are held ; and their progress in every useful attainment, and their demand for every means of gratification that can be supplied to their tastes,

will no longer be doubtful. Why should such a result be despaired of? It is an attempt in which we should have all the best and strongest propensities of mankind on our side, and co-operating with us;—it is a natural, for an unnatural state of things, that we wish to substitute;—it is freedom, instead of restraint;—it is truth, instead of error;—it is enjoyment, instead of privation.

When we see the progress of liberality in our own day, how the slave trade has been abolished, the blessings of education extended to the poor, and the right hand of fellowship held forth to freedom in America, we cannot but hope that the friends of humanity, by whom all these great things have been done, may be invited to labour in this new and hopeful field of exertion. The slave trade was undoubtedly the most crying enormity on the face of the earth; but though there is no stain of so deep a dye to wash from the Indian soil, the amount of positive good that may be done, should be a claim as strong on the efforts of those who have the interests of humanity at heart, as the magnitude of the evil to be redressed; and, in this respect, where is the comparison between the benefit to the world, in the trifling alleviation that can be afforded to the miseries of slavery, (however importunate the claim that what can be afforded should be obtained) with that which must result from the intellectual emancipation of a population of eighty millions of

men, in all perpetuity, and the infallible consequence which it must entail, of the civilization of the East. I have no doubt that by many the idea of improving the Hindoos will be treated as visionary and absurd, and by none, more certainly, than by those who pique themselves on their practical knowledge.\* But, to such men I would say, that however well they may have learned to play on the flute, they have paid but little attention to the means by which small cities may be converted into great states. The miracle is not that a people should be made to improve, but that a people should have been rendered stationary for so many ages.—That a form of society should have been devised, capable of withstanding so many conquests—so many centuries of subjection to foreign rule—so many persecutions—so many attempts at religious conversion—of arresting the impulse itself which man received from the hand of his Maker; and of exhibiting the people, at the end of thousands of years, still fixed in the attitude and on the spot in which they were first petrified by its touch, is the greatest moral and political wonder in the history of the earth. “Je

\* The allusion is meant to apply to men of this character generally, and not to the servants of the Honourable Company; a body, not more remarkable for the exemplary and laborious discharge of their duties, than for the candour and liberality with which they are disposed to impart and to receive information.

“ prie,” (says Montesquieu, speaking of the contrivers of the Greek constitutions,) “ Je prie qu’on fasse un peu d’attention à l’étendue de génie qu’il fallut à ces législateurs pour voir qu’en choquant tous les usages reçus, en confondant toutes les vertus ; ils montreroient à l’univers leurs sagesse.” How much more justly might the same remark be applied to those men by whom the Hindoo laws were given, compared with whose enduring institutions, the boasted provisions of Solon or Lycurgus were but the passing expedients of a day.

If the system were assailed by any of the means which it has hitherto withstood, or by any direct application of power, the task would be hopeless. The means, the irresistible means by which its withering influence may be overcome, exist in the latent energies of human nature itself :—we have but to clear out the springs and the fountain-heads of the waters of life, to set free the “ naturam naturantem sive fontem emanationis,” to make them flow of themselves, and cover the dry and thirsty desert with verdure and plenty. It cannot be supposed that the measures can be stated here by which such a result might be produced, although many might be suggested ; but lest these remarks should be considered too general, I will only say, that we may put them, or a large portion of them, in possession of an European language, and the door of the temple

of knowledge is thrown open before them ;—we may permit, under proper restriction, the acquisition of land by Europeans, and by colonizing the country, incorporate with the landed interest already existing, a body of gentry that must operate powerfully in changing their habits. Much may be done to collect the gentry into towns. We may establish other sources of distinction in society, in opposition to the dignity of caste, to weaken its influence :—we may stimulate in various ways the action of the wants of the people ; we may do something towards acquiring an influence over the priesthood, which might be exerted to relax their jealousy, and for many useful purposes ; and we may give value and importance to superiority of attainment, by making it the road to profit and to honours.\*

Some useful hints may be derived from the means by which our own barbarous ancestors were reclaimed.

Sequens hicms saluberrimis consiliis absumpta, namque ut homines dispersi ac rudes eoque bello faciles, quieti et otio per voluptates assuescerent : hortari privatim, adjuvare publice, ut templa, fora, domus extruerent, laudando promptos et castigando segnes ; ita honoris emulatio pro necessitate erat. Jam vero principum filios liberalibus artibus erudire et ingenia Britannorum studiis Gallorum anteferre, ut qui modo linguam Romanam abnuebant, eloquentiam concupiscerent. Inde etiam habitus nostri honor, et frequens toga : paulatimque discessum ad delinimenta vitiorum, porticus et balnea et conviviorum elegantiam. Idque apud im-



No stronger proof can be required of the certainty of demand in producing intellectual acquirement of any kind, than the number of individuals who have arisen in Bengal, possessing all the qualifications of the most expert English clerks and accountants, without any public assistance, and simply from the knowledge, that such attainments will afford a respectable means of existence. Such men are to be found, in any number, and at most moderate salaries ; speaking the language, it is true, very imperfectly, from the imperfect instructions they can convey to each other, but understanding it sufficiently for any purpose of communication ; writing the character in the highest perfection, and keeping the books of bankers, and of the public departments of Govern-

peritos humanitas vocabatur, cum pars servitutis esset.—Tac. Julii Agric. Vit.

From the way in which Tacitus speaks of the *frequens Toga*, it may be presumed, that some previous prejudice had existed against it among the Britons, as the distinguishing badge of their conquerors. A remarkable instance of a similar effect produced by a similar cause, is to be found in India. Among the articles recommended by Sir Thomas Roe, to form part of an investment to India, from the request in which they were held at the court of Jehanguire, are *hats*. The meanest Hindoo or Mussubnan in Bengal would not now be induced by any consideration to put a hat upon his head. And a *Topé-wallah*, or hat-wearer, is a term of scurrilous and opprobrious abuse among the lowest of the people.

ment, with a precision and a neatness not to be surpassed. If then this humble remuneration, in an obscure avocation, has been able to produce such an effect in leading them to cultivate a species of knowledge, which has no attractions of its own, what might we not expect with the facilities of public institutions,—the stimulus of public honours,—the ambition of public employment,—the rewards of public emolument, in those higher and more ennobling pursuits,—where the mind is borne along by that “*insatiabilis quædam e*” “*cognoscendis rebus voluptas in qua una, confectis rebus necessariis, vacui negotiis, honeste ac liberaliter possumus vivere!*”\* Can it, indeed, be questionable, whether a people be susceptible of improvement, to whose intellectual powers we owe the origin of all the sciences, and the rudiments of almost every art? †

Their prejudices are inwoven with unequalled art with the frame of society, and with the very texture of their minds; and, if we would alter their opinions, and produce a change for the better, we must begin by placing them in a condition to dissolve those associations with the fundamental principles of the human constitution, on which the durability of their condition has been founded. How vain, hitherto, have been the attempts to convert the people from the absurd and puerile observances of the superstition which they pro-

\* Cicero de Fin.

† See Note (M.)

fess, to the pure morality, and simple and beautiful truths of the Christian religion; and for no other reason, but because it is impossible that ignorance and darkness should comprehend the religion of knowledge and of light,—as well might we hope to force the fruit from a tree, before it had put forth its leaves and its blossoms! Cultivate their understandings, and enlarge their minds, and they will turn of themselves from their monstrous idolatries and fantastical imaginations, in quest of something with which human reason can reconcile itself; then offer them your religion, and it will be eagerly received, in all its perfection, without the risk of profanation by their misapprehensions. The dark and gloomy forest, with which the land is overshadowed, must be cleared away; the earth laid open to the genial influence of the sun and of the air, and the soil subjected to the plough and to the harrow, if we would commit the good seed to it with any hope of return. In doing so, we shall but imitate the wisdom of Providence in the dispensation of mercy, by which this boon was bestowed upon the world; half the generations of men were suffered to pass away, ere the light of the Gospel arose; and it came not till the progress of human reason had merited the blessing, by the readiness of the more advanced portion of the species to abjure their errors. \*

\* “ Quis enim Hyppocentaurum fuisse aut chimæram

I have alluded to the subject, not only as a motive to those who are zealous for the conversion of the heathen, to promote the intellectual improvement of the people, but because they run the risk of marring the very end they would accomplish. They must press their direct efforts with caution, if they would not render the means abortive by which these efforts alone can ever succeed. Instruction the people may be readily made to receive, if it come not in the garb of a hostile religion; and before a very moderate intellectual cultivation, such ridiculous absurdities as constitute the objects of their veneration could not stand for an hour.

The improvement of the people is daily becoming more necessary, from other considerations than those of mere philanthropy. We are beginning to discover the evils resulting from a want of assistance on the part of the inhabitants; and before any remedy can be applied, the people must be qualified to take a greater share in their own affairs. We have tried the extraordinary experiment of performing, by means of a few hundred

“putat? quæve anus tam excors inveniri potest, quæ illa,  
 “quæ quondam credebantur apud inferos portenta, extimes-  
 “cat? Opinionum enim commenta delet dies; naturæ ju-  
 “dicia confirmat.”—CIC.

“O! genus attonitum gelidæ formidinc mortis,

“Quid Styga, quid tenebras, quid nomina vana timetis,

“Materiem vatum, falsique piacula mundi.”—OVID.

foreigners, all the duties of Government for a population of eighty millions ; and, as might have been expected, the experiment has failed. The courts of justice are universally deeply in arrears. The protection to persons and to property is most imperfect ; of public instruction, there is nothing deserving the name ; and the security afforded to the territory from foreign violence, is the one only duty of Government that is tolerably fulfilled. In the state of anarchy and disorder produced by the dissolution of the Government at Moorshedabad, in which the substitution of English agents for the ancient native officers was introduced, the measure was, perhaps, the best immediate remedy that could be applied to the corruption and oppression which universally prevailed wherever the effects of power could be made venal. Government, however, in all its forms, good or bad, is an institution more or less perfect, originating in society itself, for the purpose of fulfilling those public and common duties, of which every association of mankind must feel the want. And its operation is, to a great degree, a function of society altogether. Under the most oppressive and despotic Governments, there are a number of imperceptible ties and gradations, by which they connect themselves with the people. And it may be truly said, that Government is not more necessary to society, than the co-operation and animating influence of society is

to the useful and efficient discharge of the duties of Government. Under the Mogul Empire, the whole frame of society and the Government, were completely identified. From the Emperor to the lowest peace officer, and from the Emperor to the peasant that tilled the earth, there was a regular gradation of power and of responsibility, that connected all parts of the population together. The mistake which we committed—and a mistake that has never been rectified, was, in not seeing, that in superseding, so completely, all the active powers of the ancient Government, its forms were no longer adapted to the governing principle that we introduced ; and that to frame a system at all capable of conducting the internal administration of the country, changes sufficient to accommodate the whole constitution, to the power to which it was to give effect, were indispensably necessary. Were it possible, from among a people themselves, to form an organ of Government completely insulated from society ; on which the people had no influence ; in whose aid their co-operation was not enlisted ; and discharging, by a sort of mechanical process, the several functions for which it is intended, it cannot be doubted that they would be most indifferently performed. The members of Government, however, in this case, and all the necessary agents in the dispatch of affairs, the enactment of laws, the prevention of crime, and the distribution of justice,

being drawn from the mass of society themselves, might derive, from common habits of thinking and of acting,—common prejudices—common estimates of right and wrong, and a readier insight into congenial character,—some correctives to evils of this description.\* By living and associating besides with the community, whose affairs they dispatched, they would be in the way of learning the true feelings and wants which the people experienced, and would possess the advantage of a much better observation of the effects of their measures. They could not be wholly independent of the good opinion of the population whom they governed; and above all, their own interests would be involved with those of the rest of society, in the consequences of their acts, and in the evils resulting from mal-administration. But in the English Government of Bengal, none of these palliatives are to be found—no intercourse takes place between us and the people, but that required for the transaction of business. The residence of an individual, in any one part of the country, is very short,—his connection with it at large, temporary; he is entirely exempted from the influence of his own measures, and in all probability, his stay in India is never sufficiently long to enable him to form his own estimate of their results.

In addition to this complete insulation of the

\* See Note (N.)

organ of Government from society, the number of European civil servants is manifestly totally inadequate to perform any thing like the duties of internal administration, to such an immense population; and we have committed the further error, of retarding in a government, the principle of which is that of the purest military despotism, the administration of justice, by many of the forms applicable only to a free constitution. In free states, “les peines, les dépenses, les longueurs, les dangers même de la justice, sont le prix que chaque citoyen donne pour sa liberté;” but it is an intolerable evil, in a country reduced to the condition of a conquered province, to clog the determination of causes with the penalties payable for liberty, “la manière de les finir est indifférente, pourvu qu’on finisse; le Bacha d’abord éclairci, fait distribuer à sa fantaisie des coups de bâton sur la plante des pieds des plaideurs et les renvoie chez eux.”\*

It is most natural for us, who are justly accustomed in our own country to consider the law as the safeguard of the constitution, and the decisions of our judges as the safeguards of the law,† to endeavour to secure, in as far as we can, the administration of justice from error. But the absolute and perfect dispensation of justice is unat-

\* Esp. des Loix, liv. vi. cap. 2.—See Note (O.)

† *Judicia enim anchoræ legum sunt, ut leges reipublicæ.*  
—BAC.



tainable in human affairs, and there is no injustice that can be done, so great as the withholding of justice altogether ; nor, is it conceivable that any errors, resulting from a more prompt determination of causes, could be productive of any thing like the aggregate evil resulting to the community, from the inability of our courts to overtake the business. \* The misfortune is, besides, that, after all, the pure administration of justice is not accomplished. The people have studied the forms of our courts, and have employed them to defeat the very ends that we intended them to fulfil. † Some of the upper class of natives have been heard to say, that it would be better if the English gentlemen would throw the dice at once for the decision of the suits, than settle them as they do ; ‡ and were it not that we constitute the

\* See Note (P.)

† “ Within these few years, too, the natives have attained  
“ a sort of legal knowledge, as it is called ; that is to say, a  
“ skill in the arts of collusion, intrigue, perjury, and subor-  
“ nation, which enables them to baffle us with infinite faci-  
“ lity.”—SIR HENREY STRACHEY.

‡ There is an old Persian maxim, which conveys very exactly, the feelings in the east on this subject, and which, according to Bernier, “ veut que courte injustice vaille  
“ mieux qu’une longue justice ; que la longueur des procès  
“ est insupportable dans un état, et qu’il est du devoir  
“ indispensable du Souverain de tacher par toutes sortes de  
“ voyes convenables d’y remédier.”—Bernier, T. i. p. 317.

See Note (Q.)

sole power in the country capable of enforcing an adherence to the decisions that we give, the number of causes, brought before our courts, would probably be more in proportion to their own means of dispatch.

If it were a rational and comprehensive, and well defined system of jurisprudence, that we administered, the evil might not be so great; but it is to the Mahommedan and Hindoo law, whose vague and uncertain provisions are susceptible of interminable cavils, and where the latitude of application, on the part of the judge, is the only chance of making the enactment a measure of justice, at all adequate to the cases that occur, that we have attached all these technicalities. Of the old Government it might be said,—“*quæ usu obtinuerunt, si non bona, at saltem apta inter se sunt;*” and some of its worst evils were remedied or palliated by the counteracting and compensating operation of opposite defects;—but, probably, under no government, since the world began, were such monstrous incongruities ever united,\* as in that of our East India provinces;† if it should be inquired, *how* they are united, the answer is at hand,—by the only means by which such an union was possible—by the influence of an army of a hundred and sixty thousand men.

\* These incongruities extend not only through the government, but through the whole frame of society.

† See Note (R.)

The reluctance of the people to appeal to our courts, or to support their operation, manifests itself in many ways ;—in cases of disputed boundaries, the villagers turn out in arms, and proceed to settle the question by a regular skirmish, in which many lives are frequently lost.\* It is with much difficulty, and frequently by absolute compulsion, that they are brought to appear before the magistrate, either as complainants or witnesses ; and, in all the dreadful atrocities committed by the Decoits, or gang robbers, society was completely inert in its own defence. Various means were taken to force the Zemindars to activity, and penalties were imposed to compel their assistance ; but, if all the robberies, and murders, and torturings that were inflicted, were insufficient to call forth the co-operation of the people with the Government, it is not likely that much could be gained by the risk of fine or imprisonment. In one case, (I forget precisely where) in which the inhabitants had suffered severely from this evil, they rose of themselves, and, proceeding as if no government existed in the country, surrounded the houses which they knew

\* As many as four or five thousand combatants have fought in these affrays upon a side ; a striking picture of the dense population of the country, and the species of redress the inhabitants expect from our Government.—Armies brought into the field by a few villages, almost as numerous as those by which the fate of the Spanish Provinces in South America have been decided !

the Decoits inhabited, and hanged, without any process or authority whatever, a great many of them, and thus checked effectually the outrages which they suffered.

Had any, the smallest connection existed between society and the Government, such a state of things would be impossible ; and the only remedy for the multiplied evils which must result to a community from such a separation, (and of which these are only a sample,) is by uniting the Government and the people together in one uniform system, and employing the natives, in a much greater degree, in the management of their own affairs.\* We are too apt to satisfy ourselves that all is well, if we hear that nothing is amiss ; but what was the amount of all the evil alleged against Mr Hastings, (had it been true,) and which roused the indignation of the whole country, compared with the infinite suffering and misery which the deaf and inexorable † operation of our system has produced. The whole class of the gentry have, in the short space of half a century, melted down into the multitude ! Of what volumes of wretchedness is not this the evidence ? What scenes of honest pride, struggling with the encroachments of poverty, on habitual luxuries, comforts, and necessities, have not been daily acted over and over again in this universal process

\* See Note (S.)

† *Legem rem surdam et inexorabilem esse.*—LIV.

of humiliation? \* If we look for actual and positive bodily injury, produced by our misgovernment, I do not believe that all the cruelties practised in the lifetime of the worst tyrant that ever sat upon a throne, ever amounted to the quantity of human suffering inflicted by the Decoits in one year in Bengal. †

I have been led into longer details with respect to the state of the country than I intended; but it was difficult to allude to it at all, without appearing to deal in assertions so sweeping, as to seem undeserving of credit; or to afford such a view as I have done, of some of the more remarkable and obvious evils under which it labours; and if I should appear to have exceeded the limits to which the nature of my more immediate subject ought to have confined me, I trust I shall be excused, if I have endeavoured to avail myself of what little temporary curiosity the passing occurrences may have attracted to this portion of the empire, to awaken some attention to those deep and permanent interests to England, to India, and to mankind, which it involves. Now is the moment when all is in our power. Never before had a Government such sway over the destinies of a people. The old state of things has passed away, and those principles by which a new one is to be reared up, are as yet but feebly beginning

\* See Note (T.)

† See Note (U.)

to manifest their influence; our direct power is absolute and despotic—our indirect power is equally unbounded; we have the whole stock of favours and benefits in hand which it is possible for a Government to bestow; and we must dispense them with little address, if we do not fashion, by their means, the community into whatever form we please. Honours, emoluments, education, power, and emulation—the abolition of intolerable evils—a participation in the blessings of life,—are not these a species of dominion unlimited in its effects among a population whose avidity for them is still entirely to satisfy? Yet a little while, and the operation of those active principles by which the social union is promoted, will have knit mankind together in some way or another, and cemented the discordant and unsettled elements of society into whatever form their accidental and conflicting affinities may happen to give them. Round the great landed proprietors, in all probability, will arise little barbarous communities, combining all the worst evils of the old Hindoo Governments. The Zemindars, held in a state of miserable tutelage by their Bramins, uniting the power of property with the influence of the priesthood, will dispense what they consider justice, and supersede the Government altogether, and distribute a power over the face of the country—irresistible, if it ever should be combined; a system of barbarous ignorance and

priestcraft will be organized, jealous of the sources of its wealth and influence: and the Hindoo frame of society, whose *vis inertiae* has been so effectual a preventive to improvement, will be armed with active and substantial means for its own defence, and the perpetuation of its existence. The only bugbear in the way of the measures which must be adopted to prevent such evils, seems to be some absurd and vague idea—that by improving the people, or admitting them to any share in the administration of their own affairs, we should be laying the foundation of their future separation from this country: but can it be supposed, that a connection between countries lying at the opposite extremities of the earth, can, in the nature of things, be perpetual; and is it to be assumed, that we are at present free from such a danger? Supposing that any circumstance should ever induce the Sepoys to concert together to massacre their officers in one night throughout the country, our Indian empire would vanish from our hands as if it had never been. What is the condition of things necessary to such a catastrophe? Some predisposing cause producing universal disgust with the service—a means of secret communication—and some daring spirit, with a mind capacious enough to conceive the design, and address sufficient to manage the intrigue: and though nothing of this sort has as yet occurred, the concurrence of all these means

is no way impossible, and, with the accumulated chances of years, every way probable. To objects of this kind, the views of the whole population for their emancipation are now confined; sources of discontent to a mercenary army, with so many prejudices to shock, will doubtless occur; and the travelling joguées, and mendicant priests, who traverse India from one end to the other, supply a means of unsuspected intercourse, covered with the most impenetrable veil of secrecy.—If the country is lost in this way, we lose along with it the benefit of all further commercial intercourse. The exasperation of such a massacre would kindle implacable passions on both sides, and the vain efforts we should make to recover our power, would add the rancour of hatred to the jealousy naturally conceived against their former oppressors, and either produce the effect of preventing all communication with Europeans, or throw the people into close alliance with some other power.—In the other case, is it not reasonable to suppose, that Englishmen who had purchased lands, living among such an immense foreign population, must for ages feel that their security depended on the protection which this country afforded—that the natives whom we had raised to honours—that those who filled offices of trust and emolument under our Government—that those who had in some measure adopted our habits, and looked forward to the patronage and favour of their rulers,



would feel, that with us these advantages must stand or must fall—that in short, the larger the class, and the more deep the interests, actual and in prospect, that we involved in the same fate with our Government, the greater must be our chance of duration? The connection of such an immense mass of various interests in one plot against us is next to impossible—the chance of combining any considerable part of them, without the knowledge of others by whom such a conspiracy would be revealed, would be infinitely diminished; and if in process of time we did lose the country, it would be strange if we left no party behind us by whose means a friendly intercourse might be renewed.

It may be supposed that I am recommending sudden and violent changes, or the formation of a constitution for India; but I hope I have sufficiently guarded against such misapprehension. There is little faith to be put in theoretical frames of society at any time; and the state of mankind in India is at present too rigid and unyielding, to be accommodated, by any immediate effort, to another condition. But, however defective such schemes may be, it would not be difficult, were it possible, or desirable, to resort to such expedients, to devise something better than what has resulted from the incongruous mixture of heterogeneous parts, which circumstances have forced for the time to coalesce. The only way is to

dissolve, (and that process of dissolution will be slow enough,) those discordant attractions by which society is distorted, and allow it to assume of itself some natural and symmetrical form. The education of the people will be a much less rapid operation than could be wished. The acquisition of lands by Europeans, under the restrictions which it would be desirable to annex to it, would mingle the new class with the people very slowly; and we should have abundant time to watch the results produced on the community, and to accommodate our Government to the shape it was taking.\* The important object is to put some active principle of amelioration in operation, along with those which are already beginning to influence society, which may grow up with their growth, and strengthen with their strength, and turn their influence to good. "It were good," says Lord Bacon, "that men, in their innovations, would follow the example of time itself, which indeed innovateth greatly, but quietly, and by degrees scarce to be perceived;" but the flood of time has rolled over this people, without producing any sensible impression; and what is necessary, is not vain attempts to accommodate mankind to fanciful improvements, but to lay them open to the influence of this great innovating cause, and to allow time to do its office.

It is to be hoped that we shall at length awak-

\* See Note (V.)

en to the immense prospects which India holds out, and that there are men who may exert an influence on her destiny, who will take care, that, amid the more importunate claims of mercantile expediency, and the short-sighted calculations of immediate return, the rights and the happiness of our native subjects shall not be forgotten. The means by which the welfare of the people are to be promoted, though apparently but a tardy process of advancing our interests, are in fact the only effectual steps by which our more selfish interests can be secured. It is by improving the inhabitants alone that we can derive from the possession of the territory, the commercial advantages which it is capable of yielding. The fact, that we are absolute masters of that country, “ which has, “ in all ages of the world, conferred the pre-eminence, among mercantile nations, upon the State, “ into whose ports its commerce has flowed ; \* and that its trade has dwindled, in our hands, to a mere process of remittance, from which it is questionable if any advantage be derived ; is of itself presumptive evidence, that there is something radically wrong in the management. I think it may be shown that there are but two ways, in which any direct gain can be obtained from such a country as India. The one, (and incomparably the most profitable and the best) by the fair returns of mercantile traffic, in an exchange of commodities equally beneficial to both ; the

\* Robertson's Disquisition on India.

other, by leaving the internal management of their own affairs entirely to the inhabitants, and the natural relations between the soil and capital, and capital and industry, undisturbed, and exacting from them a pecuniary tribute. That, by collecting the rents of the country, and undertaking the functions of Government for the people, and to save out of them a surplus revenue, we never can, by possibility, realize any thing, if the people have the power (as they must have) of fixing the price of grain, and consequently the wages of labour—are propositions which I conceive to be equally indisputable. The consequence results not from any deep design on the part of the people, but from that relation between the things themselves, by which such an equilibrium is insensibly adjusted.\* The surplus, in point of fact, has always hitherto proved a mere delusion, and such it always will be.

If then we have found by actual experience that little or no benefit is derived from the present system, it is at least reasonable to try something else. Abandon for ever all further views of foreign wars; do away with your restrictions; improve and enlighten the people; stimulate their dormant wants and energies by the many means in your power, and in the meantime transfer to the country (by allowing Europeans to make the acquisition of land) a body of gentry possessing the same wants with yourselves, who must contri-

\* See Note (W.)

bute powerfully to communicate them to others,—look with a friendly eye on the growing prosperity of neighbouring states,—show a sincere desire to promote their welfare and civilization, “et per  
“ingens beneficium perpetuam firmare pacem amicitiamque,”\* and the result of such a policy will soon be manifest. India will become once more a great commercial country, and you may push the ramifications of your traffic from her into the remotest regions of the East.† If, as it is reasonable to suppose, a connection between countries so remote cannot, in the nature of things, be perpetual, we shall in this manner render it as lasting as possible, and ensure, when it ceases, the reversion of benefits perhaps no way inferior to those which it conferred, as a part of the empire. As it is, like oil floating on the surface of water where no affinity exists no union takes place, nor can any lasting mechanical incorporation of parts be effected; and, like oil, we might be skimmed off at any hour without disturbing the fluid below, or leaving a trace behind us that we had ever existed.

The changes that are taking place in the state of the world must contribute to press on our attention the necessity of an alteration in our Indian policy. The immense countries lying under a similar climate, and nearer to the great seat of consumption, who have asserted their independ-

\* Liv.

† See Note (X.)

ence, and who, with the free outlet which they afford to capital from Europe, must pour a large accession of tropical produce into the market of the world, will come in direct competition with India, the rude produce of which has been constantly becoming a larger and larger proportion of its exports. Our system has, by destroying the ancient gentry, extinguished the most important part of the home demand for those articles of whose value the labour constituted any considerable part, and many arts have already been lost, and others are fast disappearing. The improvements of machinery, in this country, at the same time, have diminished the demand in Europe, for many of their commodities that were formerly in request; and instead of the muslins and piece-goods, &c. which formed, in the early periods of our commercial intercourse, the most valuable parts of an investment, we have been obliged to take quantities of indigo, of cotton, of sugar, of saltpetre, &c. to bring which to market little labour is required, beyond what is necessary to produce them from the soil. It is only by setting free the energies of the people and of the country, and by affording every assistance to the versatile power with which capital and industry accommodate themselves to the changes in the state of the commercial world, that we can come out with success from the competition which must ensue.

Many of the impediments which have hitherto operated to retard the progress of the world, have been suddenly removed ; and, if we would keep the place which we hold among the nations of the earth, we must give free scope to the immense resources which we possess. The most blind and the most prejudiced cannot now fail to perceive the gradual and certain process by which the improvement of the world is inevitably accomplishing ; and the flow of that mighty current by which the generations of men are borne along, gathering strength and rapidity as it advances in its course, and subjecting to its influence the still or eddy waters that have heretofore been insensible to its power. New nations have risen up to take their share in the common concerns of mankind. The extension of wise, and liberal, and moderate opinions, has been great. The power of man over the material universe is making daily and rapid advances ; and the sciences, which in their infancy were cradled in the East, have found their way back in their maturity from the opposite direction of the globe, to dissolve the spell by which the minds of mankind are enchained. These events have already widely extended the active sphere of human affairs, and cannot fail to be the forerunners of still greater changes in the state of the world. Experience has sufficiently shown, that it is not the progress of those great causes by which the des-

tiny of mankind is accomplished, that is the source of violence, and of the subversion of governments ; but the weak and foolish attempts of those who will not accommodate themselves to their influence, to stay and arrest them. The friends of order and of the welfare of the world will see in them only the manifestation of the ways of Providence to man ; and, co-operating humbly in the great design of universal beneficence, endeavour, by removing the obstructions which impede their effect, to render their progress equable and safe. Such is the limit of the task allotted to man in the furtherance of his own improvement ; and, as in the material world his power extends no further than to the means of moving bodies from one place to another, and bringing substances into contact whose agency on each other effects \* all the physical wonders that we see ; so in the moral world, he can do no more than encourage or repress those active qualities of human nature from which government and science, the arts of life, and all rational religious belief, have emanated ; and by which these blessings must be improved, and upheld. The power to be thus exerted may appear to be but little, but it is, in fact, as infinite as the objects

\* *Ad opera nil aliud potest homo, quam ut corpora naturalia admoveat, et amoveat : reliqua, Natura intus transigit.*  
—BAC. NOV. ORG.



which the faculties of the human race are capable of effecting. The timely removal of the obstacles to the progress of a people, may anticipate by ages the period of their civilization,—may supersede the necessity of long and violent struggles,—may emancipate the minds of many other nations, and add largely and rapidly to the general stock of benefits which mankind enjoy. That the result of the mighty and overruling principles by which the improvement of the world is brought about, is certain and infallible, independent of all voluntary aid from man, and in spite of all opposition, must be apparent to whoever will consider the silent and imperceptible manner in which they have forced their way ;—subverting governments, and whole conditions of society wherever they have proved incompatible with their operation, while they transmitted the fruits of their knowledge and experience to some less objectionable constitution of mankind. It is the business of the wise and enlightened statesman to determine the laws by which these principles are regulated, and the ends to which they tend ; and by accommodating his measures to their results, to link the greatness of his country with a process which must succeed.

Restrictions of every kind, wherever they exist, are to us a disadvantage ;—they are a certain deduction from our prosperity. Give us but a free and open market for the produce of our in-

dustry, and we need fear no approach to our pre-eminence among mercantile nations ; we possess a command of capital,—a commercial credit,—a manufacturing skill,—a knowledge of machinery,—a navy,—such as never before existed ;—a fund of advantages which, if rightly used, may enable us to keep possession of the market to as distant a period as the human eye can stretch into futurity. If then, abandoning a system of colonial aggrandizement, which can no longer be pursued with advantage, we would build our greatness on the foundations which we ourselves may lay, and bend our endeavours to stretch our dominion over the wants of the universe, the attempt may now be made with every prospect of success. In this respect, India holds out immense advantages ; not only may she become a customer, to the extent of the wants of eighty millions of people, blessed with the most genial climate, and the most prolific soil of the globe, but she may be made the centre of improvement to the surrounding countries, and the day-spring of a better science, and a purer religion, sent forth from her again to illuminate the Eastern world.

If nations may be supposed to be the objects of the moral dispensations of Providence, and to be accountable for the use of the power which they possess, a heavy responsibility must attach to us for the fate we are to mark out for a people

whose government we have usurped.\* I would entreat those who determine the measures applied to this portion of the empire, to think of the importance, not only to the interests of this country, but to the future history of the earth, of the views which they adopt, and that it depends on them to confer on the world the greatest benefit it has ever received at the hands of man.—These are magnificent objects,—objects worthy the ambition of a nation ; and if we would steadily pursue them, they are completely within our power ; —not, indeed, in the course of a lifetime,—but those who would benefit the world, must be contented to sow what others are to reap, and to trust to the slow and safe innovation of time for maturing the harvest for which they have laboured. But even in our own time we might hope to see the progress of improvement in India sensibly advanced, and at every step it makes replete with growing advantages. We might hope to see useful knowledge making its way among the rising generations—we might hope to see some more definite connection established between the landed interest and our Government—we might hope to

\* Montesquieu's observation on this head is remarkable.  
 “ C'est à un conquérant à réparer une partie des maux  
 “ qu'il a faits. Je définis ainsi le droit de conquête : un  
 “ droit nécessaire, légitime à malheureux qui laisse toujours  
 “ à payer une dette immense, pour s'acquitter envers la  
 “ nature humaine.”—(Esprit des Loix, Liv. x. Chap. iv.

see a body of European gentry transplanted to the country, creating at once active wants for our commodities, and rendering its capital available for the legitimate objects of commerce,—we might hope to see the native states convinced, by experience, of our pacific and friendly views, imitating our improvements, and valuing our alliance; and, whatever may be the fate of our political connection, we might hope to see the foundation laid of an imperishable influence over the country, in the indelible impression we had stamped upon the people. “*Hæc nova sit ratio vincendi; ut liberalitate, et misericordia nos muniamus. Id quemadmodum fieri possit, nonnulla mihi in mentem veniunt, et multa reperiri possunt.—Sed de his rebus rogo vos ut cogitationem suscipiatis.*” \*

\* Cæs. Frag.—Epist. ad C. Oppium et Balbum Corneli-um.



## NOTES.

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Note (A.) p. 5.

As late as the time of Mr Hastings, the evils resulting from these commercial principles in the government were severely felt, and they are far from being effectually remedied at this day. "The extent of Bengal," (he very justly remarks,) "and its possible resources, are equal to those of most states in Europe; its difficulties are greater than any, because it wants both an established form and powers of government; deriving its actual support from the unremitted labour and personal exertion of individuals in power, instead of the vital influence which flows through the channels of a regular constitution, and imperceptibly animates every part of it. Our constitution is nowhere to be traced but in ancient charters, which were framed for the jurisdiction of your trading settlements, the sales of your exports, and the provision of your annual investments. I need not observe how incompetent these must prove for the government of a great kingdom, and for the preservation of its riches from private

“ violence and embezzlement.”—Letter from Mr Hastings to the Court of Directors, November 11, 1773.

Note (B.) p. 6.

The state to which it was reduced is strikingly conveyed in the following words of Mahommed Reza Khan, minister to the Nuwab, in a letter to Lord Clive and the Select Committee, 19th February 1766: “ It is by “ these iniquitous practices, that the people have been “ ruined, and driven to flight, and that the revenues of “ the Sircar have been injured. There is nothing of “ worth left in the country.”

Note (C.) p. 7.

“ The time now approaches when we may be able “ to determine, with some degree of certainty, whether “ our remaining as merchants, subjected to the juris- “ diction, encroachments, and insults of the country “ government, or supporting your privileges and pos- “ sessions by the sword, are likely to prove most advan- “ tageous to the Company. Whatever may be the con- “ sequence, certain it is, that, after having once begun, “ and proceeded to such lengths, we have been forced “ to go on, step by step, until your whole possessions “ were put to the risk of every revolution effected, and “ by every battle fought. To apply a remedy to “ these evils, by giving stability and permanency to “ your government, is now, and has been, the constant

“ object of the serious attention of your Select Committee.”

“ The perpetual struggle for superiority between the Nabobs and your agents, together with the recent proofs before us, of notorious and avowed corruption, have rendered us unanimously of opinion, after the most mature deliberation, that no other method can be suggested of laying the axe to the root of these evils, than that of obtaining the Dewanny of Bengal, Bahar, and Orissa, for the Company.”—Despatch from the government of Bengal, September 30, 1765. Signed, CLIVE.—W. B. SUMNER.—J. CARNAC.—H. VERELST.—F. SYKES.

### Note (D.) p. 8.

The following remarks of Mr Hastings are striking, and may still afford instruction. “ I am not sure that the Company possessed a political character, or can be said to have conducted their intercourse with other nations on any system of established policy before the period in which I was appointed to the principal administration of their affairs.”

“ I know how readily many will both allow the position, and admit me for its author, for the sake of rehabilitating me also for it. I am not its author. The seed of this wonderful production was sown by the hand of calamity. It was nourished by fortune, and cultivated and shaped (if I may be allowed to change the figure) by necessity. Its first existence was commercial; it obtained in its growth the sudden accession of military strength, and territorial dominion, to



“ which its political adjunct was inevitable. It is need-  
 “ less to inquire whether the Company or the nation  
 “ have derived any substantial benefit from the change,  
 “ since it is impossible to retrace the perilous and won-  
 “ derful paths by which they have attained their pre-  
 “ sent elevation, and to redescend to the humble and  
 “ undreaded character of trading adventurers.”—Mc-  
 memoir relative to the state of India, by Warren Hastings,  
 Esq.

Note (E.) p. 9.

Little doubt can be entertained now, that, had we seized at once the power we have been compelled to seize by degrees, incomparably less mischief would have been done in bringing about the result. Much fewer acts of violence would have established our authority, the memory of which would have been more easily and speedily obliterated; far less blood would have been spilled, and all the better part of the population might have been preserved; their services secured to the government, their influence to society; and the infinite misery and wretchedness avoided, which has attended the lingering process of their extinction. It is much to be lamented, perhaps, that Mr Hastings was not allowed to fulfil his views. Had they been carried into effect, and could his long life and great abilities have been devoted to the consolidation of our power, India, I am persuaded, would have been, at this day, a much more valuable portion of the earth than it is.

## Note (F.) p. 19.

With respect to the population of India, various estimates have been formed from various data. Twenty-four or twenty-five millions cannot, I conceive, be an exaggerated computation for Bengal and Behar, or twenty-seven or thirty millions for these provinces, together with Benares. Above this our territory stretches for 400 miles. This territory is certainly not so populous as the lower provinces of Bengal, but it contains the seat of the ancient capital, and some large towns, and cannot be considered over-estimated, by supposing it to contain six or eight millions. We have, therefore, from thirty-six to forty millions under the Bengal government alone. For the population of the countries subject to Madras and Bombay, I have no means of forming a judgment; but if Bengal contains thirty-six or forty millions of people, the countries subject to the other presidencies cannot reasonably be estimated at less than fifteen or twenty millions. More than half the whole superficies of the country still remains under the immediate government of native princes, and, supposing their territories to be less thickly peopled than ours, they must be admitted to contain from twenty to thirty millions of inhabitants. The whole population, therefore, of India, must, I conceive, on the most moderate supposition, be upwards of eighty millions. The appearance of the country certainly conveys the idea of a very dense population. "We appeal to the recollection of every person" (says Mr Colebrooke) "who has traversed the populous parts of Bengal, whether every village does not swarm with inhabitants, whether

“ every plain be not covered with villages, and whether  
 “ every street be not thronged with passengers.”

Note (G.) p. 20.

The complete dependence of the whole frame of society on the public revenue, is strikingly exemplified by the observations of Bernier. He estimates the effective force of cavalry, generally attached to the person of the sovereign, at 35,000 or 40,000 men. But if all the camp-followers, and people connected with the Bazaars are to be reckoned, they might justly, he thinks, be stated at 200,000, or 300,000 and occasionally even more ; As, for example, when they have reason to think that he will be long absent from the capital. “ Ce qui ne  
 “ semblera pas si fort étonnant à qui sçaura l'étrange  
 “ embarras de tentes, de cuisines, de hardes, de meubles,  
 “ et de femmes même assez souvent, et par conséquent  
 “ d'éléfans, de chameaux, de bœufs, de chevaux, de  
 “ porte-faix, de fourageurs, vivandiers, marchands de  
 “ toutes sortes, et de serviteurs que traînent après soy  
 “ ces armées, et à qui sçaura l'estat et gouvernement  
 “ particulier du pays, à sçavoir que le roy est le seul  
 “ et unique propriétaire de toutes les terres du roy-  
 “ aume, d'où vient par une certaine suite nécessaire que  
 “ toute une ville capitale comme Dehly ou Agra, ne vit  
 “ presque que de la milice, et est par conséquent obli-  
 “ gée de suivre le roy quand il va en campagne pour quel-  
 “ que temps ; ces villes la n'estant ny ne pouvant être  
 “ rien moins qu'un Paris ; mais n'estant proprement  
 “ qu'un camp d'armée un peu mieux et plus commo-  
 “ dement placée qu'en rase campagne.”—Bernier, T. i.  
 pp. 300, 301.

Note (H.) p. 22.

Mr Verelst, who governed Bengal from 1766 to the end of the year 1769, and who, to the nobler distinction of “undoubted integrity amid universal corruption,” added the merit of many just views with respect to the Company’s affairs, foresaw the result of this process from its very commencement. “The extent of this traffic,” (the trade of the province of Bengal) “was prodigious, “and besides the large investments of the different European nations, the Bengal raw-silk, cloths, &c. to a “vast amount, were dispersed to the west and to the “north inland, as far as Guzzerat, Lahore, and even “Ispahân. \* \* \* \* We find from the *Pachou-trah* or custom-office books at Moorshedabad, that, “so late as Aliverdy Khan’s time, and after so many “internal revolutions and foreign ravages, nearly the “value of seventy lacs, (L. 875,000) of raw-silk were “entered there, exclusive of the European investments “which were not registered in them, as being either “duty-free, or paying at Hoogly. \* \* \* \* Besides this, there were also several collateral streams “which served to feed and swell the principal one. The “advantages derived from so beneficial a commerce, “enabled the farmer and manufacturer to discharge “their stipulated revenue to their prince, and these revenues again did not centre, nor were sunk in his coffers, but returned again through various channels in- “to the general circulation. Large jagheers were “granted to men of noble families, or particular favourites; whole districts were allotted to the other branches of the reigning family, at a rate vastly below their

“ real value ; large armies of horse, &c. were maintain-  
 “ ed, either for show or security, at an enormous ex-  
 “ pence : And even the luxury and pomp ever custom-  
 “ ary among the potentates of the east, contributed in  
 “ some degree, by encouraging a spirit of expense and  
 “ dissipating large sums among the people in general,  
 “ which, if they had remained shut up in the treasury,  
 “ would have been a loss to the currency, and no pre-  
 “ sent advantage to the proprietor. By these means,  
 “ therefore, and the advantage of the trade already  
 “ mentioned, an extensive and brisk circulation of spe-  
 “ cie was kept up everywhere ; the farmer was easy,  
 “ the artizan encouraged, the merchant enriched, and  
 “ the prince satisfied. \* \* \* But, besides this,  
 “ there are other concomitant circumstances which have  
 “ contributed to diminish the riches of the country, and  
 “ must, if not remedied, soon exhaust them. I have  
 “ observed, that one great advantage the country for-  
 “ merly reaped, was the diffusion of its revenue by large  
 “ grants to different families, and by the expensive lux-  
 “ ury of its governors ; but now the whole amount of  
 “ the land is swallowed up in one gulf—your treasury  
 “ —nor does any part of it return into circulation, ex-  
 “ cept the sums issued for our investments and necessa-  
 “ ry expences.” —Despatch from Governor Verelst,  
 April 5, 1769.

The consequences of this interference with the sources of capital, are strikingly exemplified in the almost total cessation in the erection and construction of buildings and works of public ornament and utility, and in the inferiority, in the present habitations of the better class of individuals, to those ruins and remains which still continue to attest the comfort and the opulence

which a numerous class of individuals had once enjoyed. The proprietor of an extensive pile of ruins is not unfrequently to be found living beside it in a straw hut. "Universal poverty" (says a writer of deserved authority) "prevents the undertaking from motives of public spirit, and nothing is applied to such works from the revenue levied by the state. Remains of stupendous causeways, ruins of bridges, and of magnificent stairs on the banks of the river, not replaced by similar undertakings of a modern date, suggest melancholy reflections on the decline of the country."

Note (I.) p. 48.

Of the various relations among things which constitute the objects of the science of war;—those among the physical wants, the physical strength, the locomotive powers of bodies of men, the means of sustenance, and the influence which the topographical peculiarities of a country exert, are common to all periods of the world,\* with whatever weapons war may be waged. It is impossible to describe more simply or clearly, the effects of fortified places on military operations, than in the language of Xenophon:—"But if we have a mind to go on still with the war, I say we ought to do this,

\* This uniformity has been so remarkable as to enable an eminent geographer to assume the rate of march, as a measure of distance, with singular success, in determining the situation of places; and it is the more deserving of attention, because the rate of march is not, by any means, such as the physical powers of the human frame, in supporting fatigue, would allow it to be. That the deduction from this by the *impedimenta*, the wants, and the precautions of armies, should be an uniform quantity, is surely curious. The improvements in roads and wheel-carriages cannot be so great as is supposed, or are less capable of accelerating a march than at first sight appears.

“ —we should endeavour, as soon as possible, to take  
 “ from the enemy as many of their strong places as we  
 “ are able, and to erect as many places of strength as  
 “ we can for ourselves; for if this be done, then they  
 “ will have provisions in the greatest plenty who can  
 “ take and secure the most of them; and they that are  
 “ inferior in strength will be besieged. But now we  
 “ are just in the same case with those that are upon a  
 “ voyage at sea, for the part they have sailed over they  
 “ do not leave so as to make it safer for them than the  
 “ part they have not sailed. But if we have fortresses,  
 “ these will alienate the territory from the enemy, and  
 “ all things will be with us serene and quiet.”—Xen.  
 Cyrop. Book vi.—Translated by the Hon. Maurice  
 Ashley.

Note (K.) p. 49.

The farther progress of the war, since this pamphlet was  
 printed, has confirmed the justice of these observations.  
 It is manifest that the real opposition with which we have  
 to cope, is not the military resistance of the enemy, but  
 the difficulties of the country itself. Against obstacles of  
 this description, the bayonet and the cannon will be alike  
 unavailing. The weapons with which they are to be  
 overcome, are the spade, the pickaxe, and the hatchet.  
 Of the treasures which have already been lavished in  
 this unprofitable war, half a million, rightly applied,  
 would have been more than sufficient to have formed  
 a line of road on the best possible construction, of  
 greater length than would have been required to  
 place through Sylhet, (or in any preferable direc-  
 tion,) the Company's territories in communication with

Umerepoora. A body of Bildars and Coolies, to any amount, assembled from the Company's provinces, might have relieved the troops of this labour, and, as the work advanced, the road itself would have enabled the whole resources of India to bear upon the scene of action. The army, undiminished by the deductions constantly augmenting as its distance from its point of departure increases by the necessity of maintaining its own communications, bringing up its own supplies, and providing for the protection of its own convoys, would have been kept in a state of undiminished efficiency at the point where the military impression was to be made. A road of three hundred miles, may appear a tedious and a startling undertaking, as a mere means of facilitating the operations of a war, but the portion of labour, that may be effected in a short space of time by ten or twenty thousand men, employed simultaneously, with their efforts directed to a common object, is immense. And whoever is conversant with the military history of the world, must remember many instances in which the great captains of antiquity attained their objects by works of far greater magnitude than this, effected by the unassisted exertions of the troops themselves.

Note (L.), p. 64.

Some violence was, no doubt, done to the rights which the Ryots possessed under the Mogul government ; but those rights were artificial, created by the law, and resulted from the relations which the law established between the cultivator, the zemindar, and the sovereign.



The zemindar was not a landholder, but a farmer of the land revenue ; his connection with the tract of land he held was temporary, and it was the interest of the sovereign alone that was permanent ; and, against the exactions of this middle-man, it was necessary that the cultivator should be protected. In abolishing, by the creation of a landed gentry, this absurd proprietary right in the state, we have substituted a much better and more efficacious interest in the welfare of the country ; and, if the people do sometimes suffer injustice at their hands, it is more to be ascribed to the utter inefficiency of our magisterial and judicial system, than to the destruction of the former rights of the ryots.

Changes affecting so materially the whole structure of society, cannot be made without producing some temporary evils ; but these are of little consideration, compared with the benefit of laying the foundation of a natural condition of mankind. It is most earnestly to be wished, that the permanent settlement, or some measure clearly recognizing the right of a body of landholders in the soil, was extended to every foot of territory in the Company's possession. We still hear of famines at Madras and Bombay.

A singular proof of the want of that interest by which capital is naturally directed to improvement, is to be found in the substitution of a religious motive to the most useful works. “ Dams advantageously constructed,” says Mr Colebrooke, “ assist the irrigation of “ considerable tracts ; in some provinces water is raised “ from wells, by cattle or by hand, to supply the deficiencies of rain ; each of these methods being within “ the reach of the peasants themselves : but more considerable works, though not less necessary, are much

“ neglected, reservoirs, ponds, water-courses, and dikes ;  
 “ works of piety, policy or ostentation, in former days,  
 “ are more generally in a progress of decay than of im-  
 “ provement.” \* (Colebrooke’s Husbandry of Bengal.)  
 In a great agricultural country like India, these ought  
 to have been among the most profitable of all undertak-  
 ings ; and their value to the community is sufficiently  
 manifest from the gratitude and admiration which was  
 their only recompense. Under us, the source of a nat-  
 ural interest in improvement has been in some degree  
 supplied, but the capital which is necessary to render it  
 effective has been withdrawn.

The prolific powers of the soil, and the influence of  
 the Hindoo institutions in promoting industry and po-  
 pulation, have prevented the diminution of the inhabi-  
 tants. All the evils, however, arising from the adoption of  
 such a principle as the proprietary right of the sovereign,  
 as the foundation of a revenue system, must, it is evi-  
 dent, be infinitely increased by the subjection of a coun-  
 try to a foreign and a commercial governing power.  
*Bernier*, who saw the Mogul Empire still in a state of

\* January 1826.—At the time this pamphlet was written, I had not  
 read the account of Lord Hastings’s administration, published this year at  
 Edinburgh ; nor was I aware of the extent of the public undertakings  
 which he had accomplished. It is most earnestly to be hoped, that his suc-  
 cessors may imitate the example he has set them, and seek to signalize their  
 administration by memorials of their power, at once so honourable to them-  
 selves, and so beneficial to the country. But, at the same time, it is mani-  
 fest, that however material the advantages that may be conferred by judi-  
 cious exertions of this kind on the part of government, they can but im-  
 perfectly supply either the want of the stimulus to industry, which an active  
 capital in the hands of the people would afford,—or its application under  
 the direction of their own perception of their wants and interests to those  
 purposes, the necessity of which they feel the most, and which, conse-  
 quently, are the most likely to promote their prosperity.

splendour, makes the following judicious reflections on its operation even then.

“ A Dieu ne plaise donc que nos Monarques d’Europe  
 “ fussent ainsi propriétaires de toutes les terres que pos-  
 “ sèdent leurs sujets, il s’en faudroit bien que leurs roy-  
 “ aumes ne fussent dans l’estat qu’ils sont, si bien cul-  
 “ tivez et si peuplez, si bien bastis, si riches, si polis, et  
 “ si florissans qu’on les voit : Nos roys sont tout autre-  
 “ ment riches et puissans qu’ils ne seroient, et il faut  
 “ avouer qu’ils sont bien mieux et plus royalement servir ;  
 “ ils se trouveroient bien-tost des roys de deserts et de so-  
 “ litudes, de gueux, et de barbares ; tels que sont ceux  
 “ que je viens de représenter, qui pour vouloir tout avoir  
 “ perdent enfin tout, et qui pour se vouloir faire trop  
 “ riches se trouvent enfin sans richessess, ou du moins  
 “ bien esloignez de celles que leur aveugle ambition et  
 “ l’aveugle passion d’estre plus absolue que ne permet-  
 “ tent les loix de Dieu et de la nature leur propose ;  
 “ car où seroient ces princes, ces prelates, cette noblesse,  
 “ ces riches bourgeois et gros marchands, et ces fa-  
 “ meux artisans, ces villes de Paris, de Lion, de Tou-  
 “ louse, de Rouen, et si vous voulez de Londres, et  
 “ tant d’autres ? Où seroit cette infinité de bourgades  
 “ et de villages, toutes ces belles maisons des champs et  
 “ toutes ces campagnes et collines cultivées et entrete-  
 “ nuës avec tant d’industrie de soin et de travail ? Et  
 “ où seroient par consequence ces grands revenus qui se  
 “ tirent de là, qui enrichissent enfin les sujets et le sou-  
 “ verain ? On verroit les grandes bourgades devenues  
 “ inhabitables pour le mauvais air, et tomber en ruine  
 “ sans que personne songeât à rien reparer ; les collines  
 “ abandonnées et les campagnes devenues incultes, pleines  
 “ de broussailles, ou des marais pestiferez comme j’ai  
 “ dit.”—Bernier, t. i. pp. 311, 312.

## Note (M.) p. 71.

The people are far from being insensible to the increase of ignorance, or unwilling to acquire information. In a very remarkable petition, presented by the inhabitants of Benares to government, at the time that the house-tax was attempted, they stated, very strongly, their sense of the decline of knowledge, and that, “ if it  
 “ were not for the public establishments at Calcutta  
 “ and Benares, there would not be one well-educated na-  
 “ tive from one end of the Company’s provinces to the  
 “ other.” They alluded, of course, to such education as they had been accustomed to receive, and as their seminaries are capable of affording; but they would gladly profit by better means of instruction. I knew one native gentleman who was endeavouring to acquire some knowledge of geography; he had procured a very indifferent English map of the world, and had no means of making himself master of the names of places but by carrying it about in his pocket, in his calls on the English gentlemen of his acquaintance; and he used to produce it, and ask, with much modesty, the information he required, which he wrote down in Persian, making as near an approximation to the sound of the words, as the orthography of that language would admit.

“ As we proceed,” says Mr Stuart, “ these provinces  
 “ will soon present the singular spectacle of a great em-  
 “ pire, the government of which rigidly excludes its  
 “ subjects from any object of fair ambition, which, in the  
 “ pursuit, could stimulate men to cultivate their facul-  
 “ ties, or, in the possession, enlarge their understandings,  
 “ or elevate their minds. The natives may acquire

“ wealth as merchants ; they may be proprietors of land ;  
 “ but these occupations, as they are managed in this  
 “ country, have no great tendency to raise the character.  
 “ Beyond these, with the rarest exceptions, there is no-  
 “ thing to which the people can aspire, higher than the  
 “ command of a platoon of Sepoys, or the possession of  
 “ some petty civil office, insignificant in its functions, and  
 “ paid with a salary hardly adequate to a bare subsis-  
 “ tence. My speculations may have misled me, but I  
 “ am persuaded that very unfavourable effects from  
 “ these causes may already be traced in the habits of our  
 “ native subjects ; and their long continuance must, I  
 “ I think, infallibly end in reducing the whole population  
 “ to one ignorant, grovelling, litigious, and profligate  
 “ herd.”

Note (N.) p. 75.

Some idea may be formed of the inconvenience ac-  
 tually experienced by those engaged in the business of  
 the country, from such deficiencies. “ Nothing is more  
 “ common,” says Sir Henry Strachey, “ even after a  
 “ minute and laborious examination of evidence on both  
 “ sides, than for the judge to be left in utter doubt re-  
 “ specting the points at issue. This proceeds chiefly  
 “ from our very imperfect connection with the natives,  
 “ and our scanty knowledge, after all our study, of their  
 “ manners, customs, and languages. \* \* \* We  
 “ perhaps judge too much by rule. We imagine things  
 “ to be incredible, because they have not before fallen  
 “ within our experience ; we make not sufficient allow-  
 “ ance for the loose, vague, and inaccurate mode, in

“ which the natives tell a story ; for their not compre-  
 “ hending us, and our not comprehending them ; we  
 “ hurry, terrify, and confound them, with our eager-  
 “ ness and impatience \* \* \* \* we cannot study  
 “ the genius of the people in its own sphere of action ;  
 “ we know little of their domestic life, their knowledge,  
 “ conversation, amusements, their trades and castes, and  
 “ any of those national and individual characteristics  
 “ which are essential to a complete knowledge of them.  
 “ Every day affords us examples of something new and  
 “ surprising ; and we have no principle to guide us in  
 “ the investigation of facts, except an extreme diffidence  
 “ of our opinions, a consciousness of our inability to  
 “ judge of what is probable or improbable \* \* \*  
 “ The evil I complain of is extensive, and I fear irre-  
 “ parable. The difficulty we experience in discerning  
 “ truth and falsehood, may be ascribed, I think, chiefly  
 “ to our want of connection and intercourse with them ;  
 “ to the peculiarity of their manners and habits ; their  
 “ excessive ignorance of our character, and our almost  
 “ equal ignorance of theirs.”

I am indebted to Mr Mill's work, and to the Article  
*India*, in the supplement to the Edinburgh Encyclo-  
 pædia, for these quotations from the reports of the civil  
 servants of the Company, the only source to which I at  
 present have access. The loss of all the papers on the  
 subject of India, which I had accumulated during a  
 nine years' residence in the country, disables me from  
 confirming these general conclusions by more striking  
 illustrations. To those who are intimately acquainted  
 with the state of the country, none would be necessary ;  
 but I was induced to support my observations by these  
 testimonies to facts, that I might not appear to others

to be overcharging the picture to suit my own argument. They are, I believe, entirely drawn from reports of Sir Henry Strachey, and Mr James Stuart ; and to those who may be ignorant of the weight to which they are entitled, it is but justice to say, that these gentlemen are two of the most eminent judicial servants for talent and for worth, of whom the service of the Company has ever had to boast.

Note (O.) p. 77.

However little disposed people may be to admit the force of general conclusions, it will not be denied that the practice in this case at least, corresponded very accurately to Montesquieu's theory. " Le baton et le ca-  
 " price d'un gouverneur," (says Bernier,) " etant pres-  
 " que la seule loy qui regne et qui decide toutes chose."  
 \* \* \* \* The complaint was dismissed, " l'un ou  
 " l'autre des parties, et quelquefois tous les deux, avec  
 " des coups de bastons sur la plante des pieds, ou avec  
 " un *Maybala Baba*, qui sont de certaines paroles douces  
 " dont se servent quelquefois les cadys quand ils voyent  
 " qu'il n'y a rien à tondre sur les parties."—(Tome I.  
 pp. 317. 319.)

The absurdity of applying our forms of law to such a condition of mankind, did not escape the notice of Mr Verelst. " Such being the prevailing habits among  
 " the natives of Bengal, it is difficult to conceive a more  
 " ridiculous scene, than a grave judge, arrayed in his  
 " robes of dignity, discoursing before the simple Indian  
 " of implied hirings for a year ; of statutes compelling  
 " labourers to work, and masters to employ ; of ap-

“prenticeships; of indentures; of the necessary qua-  
 “lifications for the exercise of trades, and the incapaci-  
 “ties consequent on neglect; where relief may be given  
 “by one magistrate, and where redress must be sought  
 “from another. He might pronounce a very graceful  
 “panegyric upon the noble policy of our English law,  
 “upon the generous equality subsisting in the inferior  
 “relations of life, and the elevated sentiments it is fitted  
 “to inspire. All this may be just, would the native  
 “observe, but I know not the judge, and how can I  
 “believe him my friend? If my master forsakes me,  
 “to whom shall I look for support? or how can I ex-  
 “pect protection from those who derive no advantage  
 “from my labour?”—A View of the Rise, Progress, &c.  
 of the English Government in Bengal. By Harry  
 Verelst, Esq., late Governor of Bengal. London, 1792,  
 p. 136.

Note (P.) p. 77.

The causes to which I have before alluded, which  
 prevent in India the accumulation of capital, operate  
 with such effect, that the cultivation of the earth is ge-  
 nerally, if not universally, carried on by loans from the  
 Shroffs or Bankers in the towns, advanced upon the  
 security of the future crop, at most usurious interest.  
 The effect of our land-tax, calculated at ten-elevenths  
 of the surplus produce, and the complete decline of the  
 ancient gentry, who have consumed their capitals, ren-  
 der the disproportion between the upper and lower  
 classes in India much greater than in any other coun-  
 try; that is, in this case, the proportion between those



who have something, and those who have nothing. The previous habits of oppression acquired under the Mogul Government,—the abolition, by the permanent settlement, of fictitious rights, created by the ancient system, in the cultivators of the soil, rendered the lower classes of society the special objects of the protection of the law, from the injuries to which they are so peculiarly exposed. These men, (and these men are the community,) cannot approach our Courts of Justice. “The cultivators are unable to support themselves at the Sudder during a procedure of two or three months. They cannot return to their houses without submitting to their oppressor. They must have speedy justice, or none.”—§ Henry Strachey.

Note (Q.) p. 78.

“Optima lex quæ minimum relinquit arbitrio judicis, optimus judex qui minimum sibi.” But this sort of “optimus judex” requires the “optima lex.” Of the law in operation in India, Mr Mills gives the following very just account. And it can scarce be doubtful, that the decisions of any English gentleman, of fair understanding, on the individual merits of each case, would be better than the *summum jus* of such a code.

“It is a sort of a mixture of the Mahomedan and English systems, and so contrived as to combine the principal vices of both. With the exception of a change in certain modes of punishment, revolting to English minds, the Mahomedan code which, in penal matters, had been exclusively followed by the Mogul Government, was still retained. It was the

“ characteristic of the Mahommedan law, as it is of  
 “ the law of all rude nations, to be unwritten. The  
 “ standard was the Kôran, in which nothing beyond  
 “ a few vague precepts could be found. To these were  
 “ added, the commentaries of the Doctors, of which  
 “ some had attained the rank of authorities. The vague-  
 “ ness of the commentaries corresponded with the vague-  
 “ ness of the original ; and no distinct legislative defi-  
 “ nition existed.”—Mills, vol. iii. p. 36.

In civil suits, the Mahommedan or Hindoo law is applied, according to the religion of the defendant.

Note (R.) p. 79.

“ I fear,” (says Mr Hastings,) “ I fear, I say, that  
 “ the sovereignty will be found a burden instead of a  
 “ benefit, a heavy clog, rather than a precious gem to  
 “ its present possessors. I mean, unless the whole ter-  
 “ ritory in that quarter be rounded and made a uniform  
 “ compact body by one grand and systematic arrange-  
 “ ment, such an arrangement as shall do away all the  
 “ mischiefs, doubts, and inconveniences, both to the  
 “ governor and to the governed, arising from the varie-  
 “ ty of tenures, rights, and claims, in all cases of land-  
 “ ed property and feudal jurisdiction in India : from  
 “ the informality and invalidity, of all engagements in  
 “ so divided and unsettled a state of society, and from  
 “ the unavoidable anarchy and confusion of different  
 “ laws, religions, and prejudices, civil and political, all  
 “ jumbled together in one unnatural and discordant  
 “ mass.”—Memoir relative to the State of India.

## Note (S.) p. 81.

“ In our country we all know what service the so-  
 “ ciety contributes to its own protection ; we know how  
 “ much vigour is conferred on its police by the sup-  
 “ port which it receives from native gentry, from re-  
 “ spectable landholders, from the corporations in towns,  
 “ and from substantial persons of the middle class in  
 “ the villages. We can form some conceptions of the  
 “ mischief which would ensue, if that support should  
 “ be withdrawn, and an attempt made to compensate it  
 “ by positive laws, and artificial institutions. Such is  
 “ the extreme difficulty of distributing justice to a peo-  
 “ ple without the aid of the people themselves.”—Mill’s  
 British India, Vol. iii. p. 334. “ It is not intended”  
 (says one of the most acute and experienced public  
 servants employed in the affairs of India) “ to suggest  
 “ that the exclusive employment of native agency is an  
 “ example fit for imitation in the more extended scale  
 “ of our national administration in India ; but the ge-  
 “ neral success of the experiment, and the practice  
 “ (where discretionary power has been allowed) of the  
 “ most efficient public officers in the south of India,  
 “ have established the wisdom, the safety, and, we may  
 “ add, the justice of committing to the governed a larger  
 “ share in the prosperity of the government ; of secur-  
 “ ing fidelity, by opening to them a wider field of mo-  
 “ derate and legitimate ambition, and thus temperately  
 “ regulating that system of exclusion, which, in its pre-  
 “ sent state, no humility can otherwise contemplate than  
 “ as the brand of national degradation.”—Colonel  
 Wilks.

## Note (T.) p. 82.

A native gentleman, of whom I made some inquiries on this subject, furnished me with a list of upwards of one hundred families, who, in his own memory, had disappeared from the neighbourhood in which he lived, either by migration in quest of employment to the native States, or who had been lost among the crowd. He enjoyed, himself, a small pension from the British government, which rendered him wealthy, compared with his less fortunate acquaintances; and he told me one day, that he had that morning purchased, as an act of charity, a sofa, from the widows of a man "to whom *he*, when he met him, was used to bend very low." In our little intercourse with the people, we know hardly any thing of what is passing within the walls of their houses; but human suffering is much alike in all climates, and with a few such glimpses, imagination can very readily fill up the spacious canvas she has to work upon.

## Note (U.) p. 82.

"Were I to enumerate," (says Mr Dowdeswell, in a report to government on the subject,) "only a thousandth part of the atrocities of the Decoits, and of the unjust sufferings of the people; and were I to soften that recital in every mode which language would permit, I should still despair of obtaining credit, solely on my authority, for the accuracy of the narrative. \* \* \* \* Volumes might be filled with the atroci-

“ties of the Decoits, every line of which would make the blood run cold with horror.” There was one man hanged during Lord Minto’s government, who boasted that he had, with his own hand, in the course of a few days, committed nineteen murders.

“The *evidence* lately adduced, exclusive of a multiplicity of other *proofs*, establishes, beyond a question, the commission of robberies, murders, and the most atrocious deliberate cruelties ; in a word, an aggregate of the most atrocious crimes ; nor let it be supposed that these offences were of rare occurrence, or confined to particular districts ; they were committed, with few exceptions, and with slight modifications of atrocity, in every part of Bengal.”—Despatch from Lord Minto, May 1810.

*Proofs and evidence !* Of what ? That all Bengal was subject to the nightly infliction of such horrors, that no man could possibly retire to rest in security !—No language can convey more strongly a true idea of the state of the government. It is like the state of the head in the human body, where the rupture of the neck destroys the nervous communication with the rest of the frame, and leaves it unconscious of the violence which the system may sustain.

It cannot be supposed that it is intended by these observations to convey any reflection on the amiable and excellent and enlightened individual who then governed the country. The passage was quoted merely as affording a striking illustration of the complete separation of the governing power from the people. The measure applied as a corrective, sufficiently manifested the consciousness of the government itself of its own ignorance.

But the remedy was, if possible, worse than the disease. An individual, I believe, unconnected with the service altogether, was the first person who struck out the idea on which the government acted, of establishing a system of police formed on the principle of *hired informers*. “*Sic delatores, genus hominum publico exitio repertum et poenis quidem nunquam satis coercitum per præmia eliciebantur.*”—(Tac. Annal.) This measure, reprobated by the most acute political observers of every age, was, both in its modification and in its application to the people of India, peculiarly pernicious. The Goidas were not only encouraged by reward, but they were regularly organized;—they were not only the secret emissaries of government, they were its avowed agents; they appeared not merely as insidious inspectors of the conduct of individuals, but armed with all the terrors of an unknown and secret connection with absolute power. Where recourse has been had to such an expedient, from the suspicious jealousy of individual tyranny, the class of society most liable to denunciation are comparatively few, and derive some security from their own consequence and superior intelligence. But the whole mass of the people in India might, with a little plausible artifice in the informers, be made the subjects of an accusation of Deceit. Multiplied instances had previously occurred, not only of fabricated accusations, but of fabricated confessions of Deceit, extorted by the Darogahs and police agents, either to show their own activity, or from worse motives. And it may easily be conceived what the effect would be of letting loose a swarm of miscreants of this description on a people so ignorant and so timid as the Hindoo peasantry. The measure was far from answering its purpose, and only exposed

the community to a new species of suffering, in the necessity which it imposed of propitiating these formidable instruments. These objections were urged with great force at the time by Mr Ernst and several of the ablest among the Company's servants;—and, indeed, very little reflection may satisfy any one how perfectly impossible it is to remedy the want of that sympathetic intelligence which should subsist between a government properly constituted and the society to which it belongs, by hiring the vilest portion of the populace to furnish it with information.

Nobody who had the good fortune to know the benevolence and gentleness of character of the late Lord Minto, and the grace to these amiable qualities communicated to all that he did, can doubt that his motives in the adoption of this measure were of the purest nature, and those who may be disposed, like myself, to differ with him as to its merits, will readily admit, that, if his judgment erred, it was in what he considered a choice of evils. The mistake seems to have arisen from viewing the case in an insulated light, as a mischief to be repressed, rather than an indication of causes that required more general remedies. In the common distrust which seems to prevail of every thing like general conclusions, people seldom look beyond the received formulæ of technical applications; and the atrocities were of such magnitude and so universal, that it is not wonderful if government caught at any proposal that seemed to offer a prospect of immediate relief, or which came recommended by the weight of official experience. The case may serve to show the danger of departing from those great fundamental principles of government and legislation, which have their basis in justice, and in *fair*

*and open dealing* with society. Even when a temporary purpose is effectually served by a departure from them, the evil incurred is entailed on society with all the credit derived from its success. But the cases are rare in which they will be found to possess this authority, and the present is certainly not one of them.

Note (V.) p. 87.

Some steps might doubtless be taken to ameliorate the judicial system—too much pains cannot be taken to sink the Hindoo and Mussulman law into disuse. If they were only got rid of, whatever displaces them might be improved into something that is better. The introduction of *Juries* presents a natural remedy for the difficulties experienced by our Judges in the determination of the fact, and the idea is not new to the people : the *Punchaet*, among the Hindoos, is indeed an arbitration by jury, in daily use, without resorting to our courts at all ; and from some of the most enlightened judicial servants in Bengal, with whom I have conversed on the subject, I have been informed, that some improvement of it might readily be incorporated with our system. Schools of jurisprudence (and of medicine) would be infinite benefits to the country, and might be more immediately carried into effect than the more general education of the people. “ There are some notions of justice not “ confined to time and place, derived from the necessary “ intercourse of men, and common to every clime. These “ are the foundations of all government, and from such “ simple beginnings must our fabric be raised. To “ render all rights plain and simple, to remove rather



“ the occasion than the means of oppression, and to enforce a prompt administration of justice according to the primary laws of all nations, can alone be safely attempted.” Verelst’s View, &c. &c. p. 132.

Note (W.) p. 89.

It is not, of course, meant to assert, that we must act exclusively on one or other of those principles—to whatever extent they are acted on, they may afford a source of profit; unless blended with something else in such proportion as will defeat their operation. At present we act on neither. The effect of a tax, calculated at ten-elevenths of the produce, levied directly from the landholder, is a curse upon a country, “equivalent to the inclemency of the seasons, and the sterility of the soil.” It is, in fact, withdrawing ten-elevenths of the funds, which ought to support the gentry, and stimulate every subordinate description of industry; and the paltry sums, in which it is doled out to the people, as salaries by our Government, prevent its supplying in this way any little compensation which it might afford for its interference with the natural process for the accumulation of capital. Were it possible that a Government, under the immediate influence of commercial interests, could be supposed to look forward to those more remote advantages, which alone are to be hoped for from political measures, the Company would find it infinitely for their benefit to be less exacting in such a direct drain upon the sources of all prosperity, and to seek for other objects of taxation, interfering less with the active industry of the people. India possesses no mines of the precious metals, and

the only means by which any benefit can be derived from a share in its wealth, by this country, must be, either by the exportation of the produce of industry, or the produce of the soil. Supposing that we could realize the whole tenth-elevenths of rent, as what we call surplus revenue, it could not be exported as rude produce, nor any considerable part of it, from the counteracting effects of freight and want of demand. It is the produce of industry alone that can be carried away with any prospect of advantage; and to the extent to which it may be carried away with advantage, there is no limit. To obtain such a source of wealth, however, the people must be rendered industrious, and induced to apply their industry to objects valuable to us; and there is no way of doing this but by making their industry a source of benefit to themselves. The people possess the means of existence by cultivating the earth; and beyond this we cannot *compel* them to labour, unless we reduce them to the condition of slaves, and work them under the lash. The first great step that takes place in the subdivision of labour, is the separation of the free hands from the cultivators; but this separation will not take place without a motive. Every man will employ as much of his time in tillage as will raise the means of subsistence for himself and his family, and be idle for the rest. A retrograde process of this kind is rapidly going forward in India, and undoing what progress the people had made in civilization. Even the obstinate prejudice of caste, and the artificial subdivision of labour, established by it in society, are yielding before its influence, and many weavers and other handicraft tribes, in order to exist, have been obliged to mix with their proper trades the cultivation of a portion of ground. It is needless to say,

that these observations apply to the amount of the tax ; my former observations on the same subject, to the relinquishment of the right in the soil to the people—a blessing of inestimable value. The same, or a larger amount, would have been taken equally directly from the soil in a much more pernicious way ; and the exemption from the horrors of famine, and the security of possession as a source of happiness to the people, are benefits greater than any wealth could bestow. But, if we would govern the country, with a view to its prosperity, some temporary diminution of revenue should be submitted to, (if such diminution of revenue is necessary,) in order to allow less destructive sources of taxation to arise. But, under the present form of government, such views are not to be expected. The first measure of reform affecting the governing power ought certainly to be an effectual separation between the mercantile and political interests which it combines, whose union has been mutually destructive of each other's ends, from the moment that their alliance began. Nor is such separation incompatible either with the continuance of the consequence or the patronage, much less of the profits of the Company.

Certain lands claim exemption from taxation, on account of the religious or charitable motives which had led to the grants, and which, in the settlement of the revenue, our government have respected. “ The more extensive tracts “ of free lands” (says the same high authority from which I have already quoted in Note (L.)) “ are sufficiently numerous to have offered to observation the “ comparison of their prosperous condition, contrasted “ to the lands paying revenue ; the free tracts are gardens, the others comparatively a waste ; and this ob-

“ servation, which cannot escape any person traversing  
 “ Bengal, might lead to the conclusion, that the land-  
 “ rents are too heavy, and discourage industry.” \* \*  
 \* \* \* “ Having a permanent interest in the land, and  
 “ being in no necessity to levy a specific sum, whether the  
 “ tenants can afford it or not, the proprietors of free lands  
 “ have not had the same inducements to rack-rent their  
 “ estates, as those who have come under engagements  
 “ to government, whether as Zemindars, or as tempo-  
 “ rary farmers. The farmers of the rents of free lands  
 “ engaging for a moderate revenue, proportioned to the  
 “ dues regularly demandable, have not been led to the  
 “ same violent, or to the same indirect, methods of op-  
 “ pression. Nor have the same abuses arisen from  
 “ frauds opposed to oppression. The rents of the ten-  
 “ ants continue less intricate, and less unequal. The  
 “ average assessment on the tenants of free lands may,  
 “ perhaps, not be much inferior to the average on the  
 “ lands assessed for public revenue; but not being so  
 “ unequally distributed, the peasants at large are not  
 “ depressed. We state this on the result of long and  
 “ familiar observation.” These remarks were made on  
 the state of the country some years ago, but they are too  
 just not to remain applicable as long as the principles on  
 which the effects depend shall continue to operate.

“ The consumption of the commonalty is the wealth  
 “ of the nation; and the country may be deemed flour-  
 “ ishing, in proportion as the people at large are in an  
 “ easy condition.” Religious restrictions may, indeed,  
 prevent that activity of enterprise, which, while it excites  
 improvements, is excited by them in return. But it cannot  
 prevent people from enhancing on those conveniences

which experience has taught them to value. And the vast mass of the inhabitants of India are most scantily furnished with the absolute necessities of life. "Substantial buildings are altogether wanting. This, indeed, cannot solely be ascribed to general poverty, it is partly chargeable to manners and habits, but the neatness and convenient shelter of the straw-huts and sheds of those whose circumstances are comparatively easy, show that the Indians are not indifferent to their lodging. Turning from these to the miserable hovels, which hide rather than shelter the peasantry at large, we find the peasants, and even the inhabitants of cities, crowded in narrow huts, which are neither secured from intrusion nor from weather, and are formed of materials which a wealthier class would refuse even for fuel." \* \* \* "That a large proportion of the people should use unnutritive grains and pulse instead of white corn, cannot be ascribed to spontaneous austerity. Salt is eagerly desired by the Indian, his vegetable diet requires it, but the most numerous classes cannot afford to season their food with it. Observe the peasant's meal, a pinch of salt on a leaf stands by his plate of rice, a few grains at a time deceive his palate, while he swallows several mouthfuls of insipid food. His abstemiousness in respect of this and other condiments, for which his predilection is known, is not voluntary, he is sensible that he is ill fed." \* \* \* "Though the form of dress (among the different ranks) be similar, the materials employed constitute a considerable difference—clothes of a good fabric are within the reach of few—a coarse and ill-struck cloth, of the same texture as that known to the trade as *wrappers* in packages, is the dress of the more numerous classes,

“ while many are content with sackcloth. For warmer  
 “ covering, foreign woollens are preferred, but attain-  
 “ able by few. The middle class are dressed in quilted  
 “ chintz, or in plain quilts, while the poorer sort have  
 “ recourse to the ragged covering of a home-made blan-  
 “ ket. The peasant decked in his sackcloth and blan-  
 “ ket, can hardly deem himself well cloathed. View the  
 “ inside of his dwelling—a coarse mat his bed—the  
 “ ground his chair and table—cow-dung his fuel—un-  
 “ glazed earthen pots his furniture—a leaf his plate—he  
 “ cannot be thought well provided.” There are few  
 who have the pleasure of knowing the eminent indivi-  
 dual to whom these remarks, and those quoted in page  
 107, are ascribed, who will not readily attest the justice  
 of the remark with which they are introduced in the  
*Asiatic Annual Register* of 1802, that “ his inti-  
 “ mate and minute acquaintance with the whole internal  
 “ affairs, and political economy of India, as well as his  
 “ deep knowledge in the laws and literature of the Hin-  
 “ doos, give great weight to his opinions.”

Note (X.) p. 90.

The state of the countries in the neighbourhood of  
 India is not favourable to a very flourishing trade, and  
 the existence of a trade with them, at all commensurate  
 with the natural advantages they possess, must, in all  
 probability, be consequent on the improvement which  
 they may be destined to receive from India; but some  
 trade is carried on in almost every direction in which a  
 passable outlet exists from the country. An attempt  
 was made (I think under the administration of the

Marquess Wellesley,) to establish a commercial intercourse, under the direction of the Company's Government, through Tartary with China. There is a caravan which comes from the confines of these countries to the great annual fair at Hurdwar, and at this place storehouses were erected, and a consignment of goods transmitted to them for sale, on the Company's account, from Calcutta. The foreign merchants arrived with assortments of goods calculated for the usual barter that took place; and, I believe, of all the Company's consignment, red woollen night-caps, such as are used by sailors, were the only very saleable commodity; and the attempt has never been renewed.—The experiment affords at least a striking illustration of the disadvantages under which a body, trading on an extensive capital, must endeavour to prosecute an incipient commerce of this sort. The successful management of such dealings belongs to a department of commerce of a very different kind, to small hucksters and pedlars, who can accommodate their wares to the wants of their customers, and at once stimulate their avidity to acquire the objects of our industry, ascertain their wants, and the extent to which the demand may be carried. These subdivisions in the vocations of commerce, determined by the profits accruing to capitals of different extent, can never, it is plain, exist, but where there are few or no impediments to these various capitals finding their natural and proper employments.

Additional Note, p. 43, after "*respect for our arms.*"

Note \*.

*January 1826.*—These three lines of policy seem to present the general views which might limit the objects to be aimed at by a successful termination of hostilities ; but it never was meant of course to assert, that one or other of them must necessarily be pursued to the absolute exclusion of the others. If any reliance may be placed on the extracts published in the daily journals from the Calcutta papers, it would appear, that the prevailing opinion in that part of the world was pointing to some arrangement by which the appropriation of a part of the enemy's territory, and the dismemberment of the rest into several States should, in so far as we could effect it, be the basis of our proceedings. The consequences of a measure of this sort would, ~~probably be to combine~~ the evils of both the general principles above stated, which it united. We shall unavoidably be entangled in all the internal politics of these vast territories by obligations of support and protection, which, if incurred, we must fulfil ; and a necessity created for a provision for unknown contingencies in that part of the country which we must, at all times, be prepared to meet. It is very questionable whether, on the withdrawing of our force, the disposition which we ascribe to the inhabitants of some of the parts of the country in our occupation to throw off their dependance on Burmah will survive that measure. It is certain, that they were very slow in showing any inclination to separate themselves from their superior government, and that the several provinces of the Birman



Empire have adhered together in this contest in a way rarely exemplified in the constituent parts of the forces that have been opposed to us in the East.

The retreat of our army will unavoidably be interpreted into a confession of inability to effect our purpose, and will, however undeservedly, proportionably raise the character of the Burman arms ; and many of those who now profess a ready zeal in our service will be among the first to advance the plea of necessity as a means of readmission to the favour of their former masters. That the Burmans should have left no adherents behind them in countries they have possessed so long, is impossible ; and nothing but the presence of a British force, adequate to secure the territories we mean to dismember, either for ourselves or others, at once against the invasion of the Burmese, and the possible commotions of the population itself, will render such an arrangement possible.

It seems to be admitted, on all sides, that accessions of territory in that direction will be unproductive of any proportionate revenue ; and they will most infallibly entail expence. It must be very doubtful to what extent we may be able to execute the plan of dismemberment. We are now only a hundred miles from the coast after three campaigns ; and the increasing difficulties in the advance, occasioned by distance from our supplies in the fleet, and other causes, begin to be seriously felt. If the enemy will not treat, or makes only a delusive peace, the moment our force is withdrawn the war will be converted into one of aggression on their part, which will afford us constant occupation on our new frontier, and in the protection of such territories as we may guarantee ; and we shall then be re-

duced to those defensive operations on a much wider scale, which, if adopted at first, would have secured effectual protection from all the evils we experienced. The question is one of vital importance to our peace and prosperity in the East; and on the decision which we are to make, whether we shall confine ourselves within the precincts of the Peninsula, or engage in the concerns of the surrounding countries, must our future fortunes depend. It appears, that, in all the past history of India, there is not a trace to be found of any permanent annexation of territory to the eastward of its present frontier. In the course of time, the limits of the country seem gradually to have adjusted themselves on the natural boundaries by which they are defined; and if these are found inadequate in any part to secure us from irruptions, the defect must be supplied by artificial means.

It must be supposed, that, in the unsettled state of society which prevails in the greater proportion of eastern countries, and especially in those with which we are now involved, the population will be long exposed to continued commotion, and it remains only therefore for us to *dam out the turbulent mass*, wherever it may break through upon our territory, and leave it to ferment into order by its own efforts. Great undertakings would happily not be necessary to accomplish this object. But we must look upon our situation in India as a permanent one, and make permanent provision for tranquillity of possession. If the frontier is unhealthy, as it probably will be from the wood with which the hills are generally covered, and the fatal miasmata, that, at the sickly season of the year, will pour down into the adjacent plain, permanent cantonments on the nearest possible points, with advanced posts properly supported, (to be

withdrawn during the rains, and their drying up,) would, I should think, in most instances, be effectual; and wherever they could be successfully applied, a few small works of martello towers to command the *debouchements* of the more important passes. The expence of these operations would be trifling compared to what the neglect of them may entail, and if the country is thought worth keeping, a portion of its revenues should be systematically applied to execute them once for all. I might appeal to the policy suggested by long experience to the greatest of military nations, (the professed principle of whose government was *conquest*,) when they found that nothing but unprofitable acquisitions were to be made. There remains still extant in our own island, of the vast military works executed by the Romans, for the protection of the most distant and least valuable of their provinces; the immense works by which the Rhine and Danube were connected, and the methodical distribution of the whole force of the empire, with a view to the security of the frontier, sufficiently show how completely they had been taught the most advantageous use of their military power.

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EDINBURGH,

PRINTED BY JOHN STARR.

To  
The Editor of  
The East India Magazine  
with The Publishers Respects

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OBSERVATIONS,

&c. &c.



**OBSERVATIONS**  
**ON OUR**  
**INDIAN ADMINISTRATION.**  
**CIVIL AND MILITARY.**

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**BY**  
**LIEUT.-COLONEL JAMES CAULFIELD, C. B.**  
**OF THE BENGAL ARMY.**

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## P R E F A C E.

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IN submitting the following observations to the notice of the public, I must disclaim every motive but that of drawing attention to the situation of our Indian Empire; the stability of which is inseparable from the interests of our country. I have endeavoured to preserve my mind uninfluenced by personal views. Whatever they may be, I am frigidly indifferent as to the effect this work may have in facilitating, or retarding them. It has been my anxious desire to avoid bias towards any received opinion, or being influenced by any party. I have served long in India, and have been employed in many branches of the Government, and have had the honour of gaining its approbation. I now, with feelings of deference, lay before my countrymen, such observations upon the several departments of our Indian administration, as appear, in some degree, to merit the regard of every man solicitous about the public weal.



**Note.**—*These Observations were sent home from India in November 1829, for publication; but from circumstances beyond the Author's control were not published.*

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# OBSERVATIONS,

&c. &c.

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## POLITICAL.

WHETHER the existing government be the best that can be devised, and is calculated to secure the greatest benefit to England and India, or whether it is capable of improvement, and if so, in what manner, are serious questions, upon which few, even of the best informed, think alike, and demand the deliberate and mature consideration of the legislature and people of the United Kingdom.

✱ In the contemplation of a question of such deep importance, involving the happiness of many millions of people, and the best interests of our country; every selfish or interested feeling ought, as far, as our nature will admit, to be laid aside, and our minds brought to a subject pregnant with good and evil, free from prejudice, and with the least possible bias. The discussion of this question should not be hampered with theories; every thing should give way to the result of experience, and the wholesome test of truth.

This investigation, whenever it may take place

should be carried on with a patient and diligent scrutiny into every department of the government. Political, judicial, territorial, commercial and military, should each be thoroughly sifted, and, if necessary, revised ; but as this division of the subject is unconnected with the matter immediately before us, we shall leave it for the present, and revert to the question ; whether, at the expiration of the charter, India and its government, as they now stand, should be continued to the Honorable the East India Company, or whether the Crown should resume the immediate charge of the vast empire that the valour, the wisdom, and energy of the nation has achieved in the East ? The glory of England, and the continuance of our dominion in Europe, Asia, and Africa, would appear to rest upon the result of the decision ; and every nation of the earth will await with intense anxiety, and deep interest, the opinion which parliament, when called on, shall pronounce upon this vitally important question ; and no doubt the united wisdom of the nation will ponder seriously, before it hazards an opinion upon a subject on which the liberty of England, and the existence of her colonies depend. The most daring innovator will pause before he advises a change in the construction of a vast and complicated machine that answers so well the purpose for which it was constructed ; more especially when he reflects that the slightest omission, the most trivial oversight, may serve to create a monstrous power in the hands

of a minister, who may, or may not, be a good and wise man ; consequently such a power would be liable to be wielded to the destruction of that constitution which has long been the boast of England, the palladium of liberty, and the dread of despotism.

When this immense question is brought before the public, advertence will, no doubt, take place to the discussions in parliament upon Mr. Fox's India Bill, which will serve to call the attention of gentlemen to the imperious necessity of keeping out of the minister's hands the means of retaining possession of his place when the measures have ceased to be beneficial to the nation. It should never be forgotten that gold will tell upon the necessities of the highest ; human nature is, and must continue defective ; and wisdom will, in legislating for the future, keep a strict eye upon the infirmities to which mankind have ever been liable. It is not sufficient that parliament is pure ; precautions for preventing the application of means calculated to corrupt its integrity must be adopted, which will necessarily point out the salutary effects that might be expected from a partial revision of the Indian departments in England. It cannot be denied that the Board of Commissioners for Indian affairs absorb the whole of the executive authority, leaving the Directors a powerless, and worse than useless body, possessing sufficient nominal authority to enable His Majesty's ministers to saddle them with the mismanagement

and odium caused by the superordinate body. While the Governor-general and the members of government can be recalled by the crown, and no governor appointed of whom His Majesty's ministers do not approve, who can assert that parliamentary influence will not operate on our governors, who are virtually dependent upon the minister, or that such a state of things will not secure a powerful and predominant weight with those members of parliament who have sons, brothers, and other near relations in the Company's service? The principle that conduces to this evil will induce the minister to lend all his interest to screen a Governor-general who is actually the creature of his power, and dependent upon his will. If the pernicious effects of the controlling Board, under the positive dictation of the cabinet, requires illustration, we shall find in the conduct of the Board in 1785, the year after its creation, with regard to the settlement of the Nuwab of Arcot's debts, ample proof of the injustice, disgrace, and pollution which was the result of the establishment of a power, alike inimical to the true interest and honour of England, and her Asiatic possessions. Let Paul Benfield, and his attorney, Atkinson, serve as an illustration and a warning of the contamination and infamy that may be introduced into our House of Commons, through the means of an interference with our Indian government. Let this serve as a beacon for future ages, to avoid "the golden cup of abominations; the cha-

lice of the fornications of rapine, injury and oppression, which was held out by the gorgeous eastern harlot, which so many of the people, so many of the nobles of this land, have drained to the very dregs." Experience has proved, that the executive functions can never be salutarily exercised by the supreme authority of the nation. Our Indian government should be effective and responsible, whether it remains in the Company's hands, or is transferred to the Crown ; and if it be continued to the former, the Governor-general should be selected by the court, under such restrictions as would ensure an impartial choice. He should not be drawn from their service ; his fortune should be unimpaired ; and he should be confessedly a man of talents and experience. In legislating for our Indian possessions, it should be recollected, that Mr. Pitt introduced his celebrated bill as a palliative, rather than a remedy for the evils then existing in the government. In framing rules, therefore, for our Indian empire, it appears essentially, if not imperatively necessary, that its altered state and condition should be thoroughly ascertained, and fully understood, and that the chances and changes to which it is exposed should be calculated on, and provided for, to the utmost extent of human foresight and prudence. The period is rapidly drawing near, when the charter, under which the present system exists, will expire, and the awful question, how our distant realms are to be governed for the future, will force itself



upon the deliberation of Parliament, and the nation. Our sway in Asia is no longer a subject about which the country can be indifferent ; the interests of England have become inseparably interwoven with the welfare and security of our Asiatic sovereignty, which has gradually, imperceptibly, but naturally, forced itself into contact with one of the most powerful nations in Europe. In the present state of things it must be manifest to the most desultory observation, that England, and Russia, must either guarantee the independence of Persia, or the former must look on with unwise, and incomprehensible indifference, whilst the latter establishes her influence, if not her dominion, over that state, and gains a position, that will secure an easy entrance into our Indian territories.

Russia, immense, extensive, and powerful as she is, has not yet reached the fulness of that gigantic size, at which fate has apparently destined her to arrive. Upon her southern, and eastern frontier, the countries of Khorasan, and Bucharia (the latter of which, is under the influence of petty, but turbulent, and warlike chiefs) present by no means a difficult nor insurmountable barrier to the attainment of an influence, that may be exerted to our serious detriment if not to our imminent danger. Hordes from independent Tartary, little Bucharia, and Thibet, would gladly join under such powerful auspices, in a plundering excursion into India. It will be wise to recollect, that our immediate eastern frontier, has

already become insecure ; a provident and cautious policy will instruct those who preside over the destiny of our Indian empire, to adopt such measures, as wisdom may consider best calculated to embrace and provide for all contingencies.

✱ The vast and profound problem of government is susceptible of so many, and varied solutions, as to puzzle the most vigorous, comprehensive, and discriminating capacity ; therefore the less complicated it is, the better. A simple piece of machinery, must obviously require fewer repairs, be exposed to fewer accidents, and when out of order, be more easily restored to its functions, and at less hazard, and expense, than a more intricately constructed instrument. The more, therefore, our system of government is simplified, the less exposed it becomes to danger. Colonies are supposed better provided for by a simple form of polity, than when subjected to numerous and conflicting regulations. To secure to any distant country an equitable, energetic, and efficient government ; we have only to guard against a minute interference with the natural genius of its inhabitants ; render their lives and properties secure, and allow them a just and adequate share in the executive government of the state. In other words, identify the interests of the population, with those of the ruling authority ; and allow active and honest industry a fair and legitimate competition.

When the rights of the community are not respected and secured, there cannot possibly exist :

sound and affectionate devotion ; there must be a reciprocal conviction, that each is necessary to the prosperity of the other : without such an impression, there can be no union of interests, no common cause to rally round, nor common principle to impel : So long as the rights of the bulk of the inhabitants are made subservient or are sacrificed to the aggrandizement of the few ; so long will injustice, dissatisfaction, and a desire to change the existing system disturb the community.

To render a foreign possession secure, we must obtain some hold in the soil, which, in a country in a great measure occupied, can only be accomplished by cautious and slow degrees. The governed and governors, to render the one happy, and the other stable, must have a community of feeling upon all important subjects ; they must assimilate in religion, usages, manners, language, and education ; every thing tending to accelerate such a consummation should be encouraged, and every thing disposed to retard it should be removed with prudence, or guarded against with undeviating solicitude. Hence it is clear, that colonization, under limited restrictions, should be admitted, and unless this necessary step be taken, our footing in India must continue infirm, and exposed to every commotion which may agitate the public mind. The security of our possessions, the prosperity, peace, and good order of society, alike demand that we should take a liberal and extensive view of our situation. It is time to cast off the

trammels which have bound us, and extricate our minds from the bugbears which have hitherto prevented our making the slightest advance towards securing ourselves in that distant land. After occupying India for the best part of a century, we may look round in vain for a class, upon which the several important duties in the various departments of the executive government could devolve, without ruin being the consequence. We are informed by an able and philosophic historian, Mill, that, the most experienced of the Company's judicial servants are unanimous in the opinion that, the \* zumeendars and merchants, are alike unfit for any confidential employment in the executive branch of the government, nay, that their employment would prove mischievous, consequently it would not be advisable that they should be invested with any judicial authority, because such an investiture would entail innumerable evils upon the people. There are none to feel sentiments of regard and respect for the government, and yet be bound to the people by a common interest, and sympathies growing out of a daily, intimate, and social intercourse ; the state of society is fictitious, and disjointed. There exist none, who, in the hour of danger, would exert themselves to aid the executive authority ; such a class is unknown, and without it permanent stability is not to be attained. Government, in its present isolated situation, can neither ascertain the wishes nor opinions of the people,

\* Landholders.

nor explain fully, matters of which it is necessary they should have a thorough knowledge. In the face of such opinions, held and proclaimed by our ablest servants; in the face of prolonged experience, and in defiance of common sense, are we to continue bound in the chains of selfish avarice, and besotted prejudice? We cannot now plead ignorance, and the necessity of experience; the first has ceased to exist, the latter stands copiously recorded in the every-day transactions of our rule.

This class in our Indian society, would appear to be our chief want; it also appears that through its influence alone, we can entertain any rational hope of perpetuating our dominion. By taking root in the soil, and thoroughly incorporating ourselves with the inhabitants, we shall succeed in becoming a part of the population, and creating a communion and identity essential to our existence; without which our dominion cannot be considered as established upon a permanent foundation. The history of India, from the period when we were first called upon to take an active part in its affairs, has, down to the present moment, satisfactorily and incontestibly proved that we cannot avoid doing so, in every question that arises between the states with which we are connected. The opinion entertained by some of the leading men in Europe, "that by a steady and conciliating conduct, the lasting tranquillity of our eastern possessions might be secured," is a mere chimera, tending to precipitate our down-


fall, unless it be supported by a population, actuated by a community of feeling, a similarity of manners, reciprocal advantage, and a conviction, that the prosperity of the one, rests exclusively upon the safety of the other. A religious impostor of either sect is at present able to agitate and inflame the public mind, from one end of India to the other. This is not an assertion unsupported by facts. Let those who observe and reflect on passing events attest the verity, or prove the fallacy, of the supposed danger attending religious imposition, combined with any political feeling inimical to our interest in a country, where superstition, and a passive and blind obedience to their spiritual guides reigns triumphant over a population of millions, a population from whence the supporters and servants of the state are drawn. Our army, our civil establishment, and menial attendants, are exposed to be acted on by a spark, capable of producing an explosion pregnant with danger; against which, situated as we are, it is utterly impossible to provide the slightest guard. The effect of such a shock would be the obliteration of our very name; of which not a trace would be left. Let but the present system be revised, and in time our army, and the principal servants of the state, might be furnished by a population connected by ties of consanguinity, by religion, by social intercourse, and feelings of reciprocal safety. At present we are exposed to the daily danger of utter annihilation, caused by internal rebellion, or external

invasion, either of which might bring on the other. In each case we have nothing to retreat upon, or rally round; and assuredly, if once compelled to retrograde, no trace would be left behind us but the remembrance of our aggrandizement. The arguments of unjustly and forcibly displacing the present occupiers, to make room for our colonists, will, we are aware, be brought against any proposition in favor of colonization. The futility of such a puny opposition is obvious; there is not the slightest shade of similarity between our situation, and that of the Spaniards, and Portuguese, in South America. There we find the invasion of a newly discovered country, impelled by avarice; there we find an army of strangers, roaming over a country, the inhabitants of which had, by a feeble resistance, exasperated that rage which drove them on with impetuosity in quest of wealth, as well as revenge. Horde, in succession to horde, reached that ill-fated land, in which, as the golden attraction decreased, their stay necessarily became prolonged, that they might search for that which they were aware existed. In consequence, places of abode and cultivation for their support became indispensable. The expatriation of the natives became inevitable, and their houses, women, and properties were seized. Thus the native population disappeared before rapine, murder, and oppression, while its place was occupied by the descendants of their exterminators. How essentially different would be the progress of colonization in

India. Under, a just, moderate, vigilant, and well regulated government, the interests of each class would be protected by the most rigid impartiality. The European settler, or his descendants, must come into the market like any other purchaser of land, and here our progress could not be marked, as in South America, by extirpation, and spoliation; here neither the lamentation of the widow, nor the cry of the orphan would be heard; our introduction would be attended with benefit to the people, by bringing ability, vigor, and capital into every branch of industrious labor, as it is evident, the higher classes only could colonize; agriculture would keep pace with commerce, and every species of mechanical art, emulation, moral improvement, and security would be the happy results of our amalgamation with the people of that favored but ill-fated land, whose population, so far from suffering evil at the hand of a well regulated and prudently restricted colonization, would have reason to bless the coming of a people who would lead the way to all the blessings of civilization, and to return thanks to the common Father of mankind, for conquests which, however ruinous in their immediate effects, were ultimately productive of such a glorious consummation. We must further recollect, that notwithstanding all that has been written to the contrary, India is not near populated; its finest districts, and those climates most congenial to an European constitution, are but thinly inhabited, and artizans are no where to be



found out of Calcutta, and even there, very few. It by no means follows that an European capitalist, who might purchase an estate, would, as a matter of course, extirpate his native tenantry, had he the power, for the purpose of introducing an European peasantry, at an enormous expense, under the conviction that in so doing he was effectuating his irretrievable ruin. We are warned of the probable rise of the natives, should they witness the accumulation of British, or Indo-British inhabitants, lest they should ultimately subvert their religion. This is a mere scarecrow to frighten the "citizens."

The palpable contradiction which we see in the Mahomedan colonization, is a quite satisfactory demonstration of the futility of such arguments, and the absurdity of the fears to which they may have given birth. The nation, however, when the matter with which this interesting question abounds comes to be discussed, will bestow upon it that impartial and patient consideration which its importance demands. 

Colonization would be pregnant with beneficial consequences to the people of India, and to the stability of our rule, inasmuch as it would create a class of subjects well-informed, and tolerably acquainted with the prejudices, manners, habits and interests of the rulers and ruled, that would eminently qualify them to fill with ability, integrity and assiduity, the subordinate situations in the revenue and judicial departments, and ameliorate the

innumerable grievances the people at present suffer from abuses existing in these branches, which would necessarily give us a hold over public opinion of the greatest possible importance to the stability of our sway ; as the light and energy infused into the minds of our subjects must be in proportion to the extent of our colonization ; it consequently could not prove inimical to our rule until such time as the united population was capable of forming an independent power, in which British interest would necessarily be identified with the independence of British India.

The quotation from Harrington (vide Colonial Policy, page 140.) respecting the Janizaries of Turkey as being applicable to our situation in India, appears to be quite the reverse ; the governments of the two countries are essentially dissimilar, and the constitution of the Janizaries and our Sepoys no less so ; the former being literally a local military body, destitute of interest in established order, whilst the latter, being drawn from the body of the people, are absolutely identified with the continuance of our rule. The danger to which our empire is, from its very nature, exposed at present, would become gradually less as colonization increased, and we should be less liable to the immense hazard attending either external invasion or internal convulsion.

With reference to the suggestions upon this topic contained in page 223-4, of " Colonial Policy, as applicable to India," free and full participation to all qualified persons, without regard to religion, ought


to be the basis of any rules relative to colonization; and natives, as well as foreigners, should be allowed to redeem the land-tax, or, in other words, become actual proprietors. Should colonization ever be admitted, and restrictions be imposed in the outset upon our native subjects, we may peradventure, instead of adding any stability to our empire, give it such a shock as will ultimately cause its fall. The effect of such restrictions would be immediate, and dangerous, if not fatal; it would be considered as an attempt to supplant the native population, by the introduction of foreigners; the tocsin would be sounded from the Himalayah, and echoed from the Indus; discordant interests would be temporarily united by the common principle of self-preservation, and we should assuredly be considered and treated as the common enemy by every description of people throughout this mighty empire.

It is said we hold our sway in India by opinion: this no doubt may have had, and possibly still has, considerable influence in rendering it more stable; but that it is the mighty talisman by which we hold our dominion, is at once unfounded and dangerous. Our tenure may be traced to a more certain source—our army. Let that be once debauched from its obedience, that moment our rule will cease; and should Russia ever make a serious attempt upon our Indian possessions, by combining with Persia, or stimulating the Afghan population of Candahar, or the hordes of Bucharra, to join in an invasion of

India, our empire, should it escape the external assault, may, nevertheless, fall by internal rebellion. We have nothing but force to rely on ; we have no population, and are considered as usurpers, by people of every degree above the cultivator and the mechanic. It cannot be concealed that their interest, pride, religion, manners, and knowledge of us and our laws, combine to generate a desire that our expulsion should be effected; and that such a sentiment would inspire a general feeling of hostility against us if the smallest hope of success was apparent, there cannot exist a doubt in any mind unwarped by prejudice, or not darkened by the decree of providence for some wise purpose beyond the scrutiny of our finite comprehension.

In conquered countries, particularly in those in which there does not exist a link between the people and their governors, dominion must be retained by a military force. Should that force belong to the nation of the conquerors, the chances of disaffection and rebellion are comparatively few, and unattended by immediate bad effects, even when they take place. But should that force have been embodied from the mass of the inhabitants of the conquered territories, as our Indian army is, separated from us by religion, manners, prejudices, and social propensities, the probability of their disaffection and rebellion will be considerably increased, and render their loyalty and allegiance a matter of anxious and feverish solicitude, and the

tenure of our dominion excessively precarious. Let our native soldiery once feel the conviction that their interests are overlooked, their prejudices unattended to, their feelings violated or disregarded, and the transition from their being the instruments of our sway to that of our downfall and expulsion, will be rapid in its progress, and in its effects fearfully awful. In such a crisis public opinion would not avail; any expectation founded upon it would prove a dreadful delusion; and those who rest secure upon such a quagmire will become, and deservedly so, the objects of contempt and derision. The magnitude of such an evil is too immense, and the occurrence of it too likely, to admit of a wise administration not applying the safest and most obvious means that human sagacity can suggest to avert such an event, or to meet it, should it come to pass, with the most powerful opposition. It is, therefore, the bounden duty of the legislature to examine strictly the system under which our Indian territories are held; and if limited colonization, progressive in its effects, hold out to its apprehension a tendency to render our rule more stable, it is incumbent on it to aid it by rescinding such parts of our present code as militate against it, and to further its progress by such new ordinances as may facilitate its commencement and completion. On the other hand, should conviction, founded on a demonstration of its baneful effects, continue to impress the mind, after a deliberate and dispassionate

enquiry into all its probable consequences, the legislature is equally bound, by the most imperative and sacred duty, to oppose every attempt to carry a measure, which they may consider fraught with evil to so large a part of the human species. In adopting one of these obvious duties, the prejudices, passions and self-interest of individuals should be discarded ; for so long as these continue influential, every sentiment of the mind and every sympathy of the heart remains perverted, and it becomes impossible to survey important measures through that disinterested medium which can alone afford a correct view and a true delineation of the right course to the natural end of all legitimate government. 

Our present system, to be rendered effective, must be released from the shackles with which it is bound ; every obstacle to improvement must be removed ; the forms and regulations which clog every department must be done away. We shall then behold that favoured region rise vigorous and triumphant from her present prostrate and inanimate condition.

It has been truly observed, " No system of government can be virtually or practically good in which the people are denied participation in the legislative, judicial, and executive branches of the state." It is obvious, that being shut out from these our unalienable rights, the prosperity of the country must suffer depression. When every department in the state is filled with foreigners, no community of opinion or feeling can exist ; neither worth, nor

talent can be called into action; and thus strangers, whose interests are opposed to those of the community, are left, fortified and prejudiced against the approach of truth and experience, to preside over a system degrading to the governors, and ruinous to the governed."

That such a system, in the hands of the crown, would prove strongly influential to the corruption of our constitution, and the ultimate demoralization of England, and her East Indian possessions, and reduce them to a similar condition with Spain and her South American colonies, we have the experience of the past for believing.

The fate of our predecessors, the Portuguese and Dutch, should not be disregarded; for however superior our system confessedly is to that of either of those nations, the defects which accelerated their fall are to be found in the course which we pursue, and particularly conspicuous in the jealous exclusion of our native subjects from every department of the government. The elements of the present generation are precisely what the elements of the past have been, and what the future will prove.

The fall of the Dutch sovereignty in Asia can alone be attributed to the home government having become so connected with the company, or rather, having usurped the functions which it should have watched over and controlled, but not exercised.

It may here be useful to take a brief retrospective view of the rise and fall of the Dutch in India, for the

purpose of drawing the attention of the public to a subject of deep and serious importance. The unexampled rise of the Dutch to power and wealth, was owing in a great degree to the decline of the Portuguese, about the period of their rounding the Cape of Good Hope, occasioned by their being debauched by a course of success and prosperity scarcely paralleled in the history of nations. Tyrannical measures, intolerance in religious matters, and a spirit of proselytism, rendered them at once obnoxious and detestable to the people they ruled; about which time the Dutch appearing in India, the Portuguese fell without a struggle before the uncorrupted simplicity of a people destined to be their successors and rivals, who speedily became masters of all their possessions, and soon rose to the highest pinnacle of prosperity; but the constitution of this remarkably successful and powerful association was, as has been observed, defective. The entire absence of efficient controul over the governing body in Europe, and the governor-general in Asia, who held his situation for life, soon led to luxury, corruption, and vice. The greatest families in Europe possessed themselves of all the patronage, and seized the most important and lucrative situations, which descended as heir looms from one generation to another. The natural effects of such a system were, the chiefs of the nation, together with the Stadtholder, became implicated and interested in malversation. In this condition, when measures of reform became im-



perative, the home government, from whence they should have emanated, was, from the peculiarity of its nature, and the venality inseparable from such an anomalous system, unable and unwilling to interpose vigorous measures to rectify mismanagement, and rescue the affairs of the company from ruin.

The impunity with which misrule and cupidity indulged their views, both in Europe and Asia, served to incapacitate the constituted authorities of the republic, and the company's functionaries abroad; and to open an easy entrance to the English, who about that time appeared as actors on the great theatre of the Eastern world. England has now possessed herself of all the land and commerce of India, and has filled every civil and military situation of honour or emolument with her own sons; she has likewise subverted, in many cases, the laws and ancient customs of the people over whom she rules, and introduced her own in their stead, and these acquisitions and innovations are supported and defended by an army raised from the Indian population. In return for this, it will be asked, what has England done for India that can be considered even as a partial return for the advantages she has reaped, or the injuries she has inflicted? It may be averred, she has secured the lives and property of millions; that a man can plough his field, and reap it, that he can build a house, and live in it; and it must be acknowledged that it is so. But it is no less true, that

his share of the harvest is a mere subsistence, and that his house is a mere hovel!!

If, upon the expiration of the present charter, the existing restrictions on the trade should be modified, and colonization neither encouraged, nor retarded, but left unimpeded in its natural course, and our judicial system revised, India will then become the first-born of Great Britain, and in a burst of heartfelt gratitude, and glowing eloquence, will hail her at once as a parent and friend. In the changed condition above noticed, it will remain for the legislature to determine with whom the government shall rest. This is a grave and serious question, not to be discussed and decided upon, as elsewhere observed, in the spirit or language of party or faction. Such an immense increase of patronage to the crown as would flow into the cabinet might give it an undue and unwholesome preponderance. Such a dilemma is not to be avoided under such circumstances, and as the preservation of our happy and matchless constitution must ever continue to be the dearest object of the nation, it will be cautious how it gives power to one of its parts, to the injury, if not to the annihilation of the remaining members. If this consideration be of sufficient magnitude and importance, it will possibly be conceded, that the present Indian corporation might with advantage be retained. To this it may be objected, that a community of sovereigns (for such the Court of Proprietors might be termed) would be as absurd as rare; nay, that it

would be creating an opposition in the state at variance with reason, and hostile to its existence. But what would be the effect of such language? Or what would it establish? Nothing; it would be mere declamation resting upon no data; it would prove a party fiction to forward party views. In reality, such a condition would be no increase of power to the Court, which is at this moment a court of princes, the organization of which would require little, if any change. Deprive them of their worst influence, their exclusive privileges, of the principle which blights every thing it approaches—their mercantile avarice, and they will be enabled to preside with vigour over the simple and obvious duties they would have to perform.

“The East India Company is in no way advantageous as a commercial and political institution, but rather an expensive incumbrance, and an obstruction which ought long ago to have been removed.” As a commercial institution, the East India Company may not have the most favourable influence upon trade, and that diffusion of knowledge and civilization which distinguishes and enlightens its track, by introducing affluence and science into every nation which opens her ports to the substantial blessings arising out of unshackled commerce. But as a political institution, it should not be rashly condemned. It has been observed in another part of this pamphlet, that the immense addition of patronage, civil and military, which the minister

would derive from the possession of the entire executive government of our Indian colonies, would prove of such an overwhelming nature as to crush every parliamentary attempt to oppose his establishing an influence, injurious, if not destructive, to the principles of the constitution; and Lord Grenville's plan of selecting young men for the civil service, from our universities and public schools, and for the army, from families whose fathers have fallen in the service of the country, would be subject to serious objections, inasmuch as the youths so selected would be the children of our aristocracy, and intimately connected with parliament, and would rather facilitate than retard its corruption, by giving the guardians of our institutions an indirect participation in the corruption so much to be apprehended. The Indian service must be retained distinct and separate from the crown, and the selection of youths, if ever the Company be done away, must devolve upon some body having no connection with His Majesty's government, and the patronage in India as at present must remain in the hands of the local government; a partial change in the constitution of our present system would appear all that is requisite to the formation of an efficient establishment.

As the promulgation of the truths of Christianity, and the uncontrolled freedom of the press in India are intimately connected with the interests of our subjects, and the permanency of our sway, we shall

make a few desultory remarks upon each before we leave this part of our subject, as it appears the fittest place to notice them. The importance of both these topics requires more ability than we can bring to the discussion ; we shall consequently, as in other matters deserving the most serious serious consideration, rest satisfied with bringing them under the notice of the public.

The conversion of the natives of India has apparently excited an extensive interest, and gained many adherents among the best informed classes in England, and is unquestionably a matter of deep concernment ; but in contemplating the good and evil consequences that may flow from the idea, if ever it gets abroad, that such an undertaking was meditated, we are called upon to observe the utmost caution, lest we should inadvertently afford grounds for the suspicion that government even indirectly favoured an attempt to introduce a foreign religion into the country. The most benign measures are not unfrequently followed by the most mischievous effects ; and religion, above all other concerns, is infinitely calculated to elicit the most impetuous, exasperated and sanguinary feelings. The history of the world abounds with awful lessons upon this momentous subject, interference with which, at one time or another, has proved a scourge to every nation whose annals have reached posterity. It is a powerful engine, and in unskilful hands may involve in ruin those who attempt to direct its opera-

tions. Ignorance, though audacious, is seldom so fortunate as to escape unscathed from the wrath which its presumption is sure to incur. There are but few master spirits in these times capable of allaying the storm that unwise temerity may provoke. In societies where civilization has made but a limited progress, the human mind is generally found warped by prejudice and superstition, which render it incapable of discrimination, and chain it to the popular religion of the state. To wean it from these, and awaken a deep and disinterested sense of its erroneous belief, we must enlighten it by education, and afford it the means of examining the pretensions of each persuasion previous to any attempt to influence its selection.

In acknowledging the duty of a Christian to exert himself strenuously in the promulgation of the sacred and immutable truths of the Gospel, we must not lose sight of the more paramount one conveyed by Christ himself in the following impressive words: "Whatsoever ye would that men should do to you, do ye even so to them, for this is the law and the prophets." The practice of this divine commandment is positively inculcated, the observance of it is in nowise to be evaded. How then could we reconcile it to our consciences to upbraid men who have spent their lives in the faithful performance of the rites of their religion, and their duties as fathers, friends and good citizens, with besottishly adhering to the knavish or ignorant tenets of idolatry, and

denounce them as offenders against the living God, and as the rightful heirs of eternal damnation? Are we warranted in insulting the feelings and rousing the passions of men who have for accumulated ages been taught to consider their faith as an immediate emanation from divine wisdom? Or could the conduct of government be held excusable for allowing, however pure, noble and generous the motive, indiscreet zeal, or blind enthusiasm to preach under the supposed sanction of its influence, a doctrine for the comprehension of which the minds of our subjects are not duly prepared? Are we to permit fanatical bigotry to roam through the country, disseminating its doctrine in offensive language, and thereby engendering in the mind of the public the utmost alarm and solicitude for the safety of the established religion? There is nothing more likely than premature proceedings in the great work of conversion, to excite and accelerate a crisis alike fatal to our sway and the general interests of christianity. Arrogance and mistaken zeal have proved in every country of which we have any account, the greatest enemies of the Gospel. Let us, then, shun the rock upon which the best efforts of the followers of Christ to spread his religion have been wrecked, and leave the great work to the holy and pious labours of such instruments as may be ordained by heaven to perfect the object of his blessed incarnation. Let us foster the knowledge, and forward the instruction of our Indian subjects, and

leave to the inscrutable wisdom of heaven the fulfilment of the word of God.

It is surprising, at a period like the present, when abundant information is every where to be found, that such erroneous conceptions regarding our Indian rule should be so generally prevalent, that we can scarcely take up a pamphlet or speech upon the most trifling subject, that we do not meet with opinions that would discredit more remote times than the era in which we live.

It appears a common error amongst the writers and orators of one party, to impute all our misrule to restrictions upon the press, and to place all our future security upon the affections of the people, which they say would follow unrestrained freedom. If an unrestricted press would carry in its train all the blessings of a free, enlightened and liberal government, who would not advocate its cause and triumph in its success? We must not deceive ourselves by such visionary expectations. The warmest advocates of a free press must admit that it is rather a part of the superstructure than the corner-stone of a great and good government; and, although quite essential to its preservation, it is not alone the fulcrum by which it can be raised into existence.

The constitution of our Indian government must undergo great changes before our possession can be looked upon as secure, or be considered mutually beneficial to England and India. To obtain this



highly desirable consummation, our native subjects must be allowed to participate in the executive authority. They must have a deep interest in the stability of our sway. They must have every thing to lose, and nothing to gain, by a change, before we can securely rest on their devotion to our cause and attachment to our institutions. They must be bound to our rule by more durable links than the recorded cruelty and misconduct of their Hindoo princes "and the no less gloomy recollections of their Mahomedan masters." The memory of both is faint, and would vanish before even a remote hope of freeing themselves from the shackles of foreigners, who are looked upon as the usurpers of the government, and every respectable situation under it — as usurpers who have shackled their trade, and enslaved them to a system more inconsistent with their education, habits and prejudices, than any under which they have before suffered. With former conquerors they shared the honour and emolument of the executive authority; under our sway they share nought, but are alike shut out from every department of the state, and thrown entirely upon the precarious profits of curtailed commerce for that affluence and independence which they are precluded from sharing with their subjugators by our monopoly of every thing else.

Thus situated, how can they understand or appreciate the vituperation of an irascible and exasperated writer, or the delusive speculations of an Utopian

enthusiast? No! something more tangible and substantial must be offered to their acceptance—an obvious and permanent benefit, participation in the offices under government, an efficient administration of defined and equitable law, through channels the least susceptible of fraud, corruption, and delay; all of which would spring from any salutary change in the present system, that would facilitate the access to situations of respectability and confidence of such of our native subjects, who might render themselves eligible by their knowledge of our language, literature, and laws. The establishment of colleges in the principal cities and schools at our out-stations would afford them the means of acquiring a competent education, and seminaries might be endowed with sufficient to render them objects worthy of the ambition of our European scholars, at an expense not exceeding that incurred for similar establishments in England, for a purpose which has been but partially obtained.

There cannot, it is presumed, exist a doubt in the mind of any man who has given the subject due deliberation, of the vast importance that would accrue from an order directing the business of our courts, judicial and revenue, to be transacted in English instead of Persian; such a change would at once secure the judge and client from the impositions of mercenary native expounders of law that few of them understand, and which is capable of interminable misinterpretation and evasion by those who are most

deeply read and intimately acquainted with its quiddities and quirks. Then public business would no longer be impeded, nor fraud rest secure against detection, and the population would be placed in possession of the strongest possible inducement to seek an intimate knowledge of our language, manners, and institutions. Under the influence of such a change, and the strongly operating power of self-interest, and the almost certainty of realizing reasonable expectations of fortune, honour, and distinction, we should see our native subjects emerge from their present state of ignorance and degradation, and become instruments of the greatest importance in rendering our empire stable by an affectionate devotion, resting upon the best interests of those over whom we ruled.

At present, even in the absence of all inducement to acquire a knowledge of our literature and language, we see the natives forward and anxious to avail themselves of the means held out by the College established in Calcutta by the Hindoo community, with a trifling aid from the British government, to acquire all the information their instructors can communicate. Here youths, sons of the most respectable and affluent Hindoo citizens, devote themselves with assiduity to their studies, and are really in a state of forwardness, considering the very limited means within their grasp, remarkably demonstrative of the culpability of the British government for neg-

lecting to cherish that from which the most important and beneficial results might be expected.

The aptitude of these youths, and their capacity for acquiring a distinguished proficiency in the several branches of scientific, useful and ornamental literature, from the specimens which the College, under the superintendence of Mr. Wilson, exhibit, would not suffer by a comparison with youths enjoying more extended means of instruction in Europe.

If such limited means are so productive, and hold out so much promise of an abundant harvest from a more liberal culture, how can we hope to be exonerated by posterity from having incurred the guilt attachable to a wilful neglect, from unworthy motives, of that which it was our sacred duty to perform, and which could not have failed to be beneficial and honourable to our own nation.

By educating the natives, we in a great degree secure the temporal advantage and triumph of our country, and under Providence are doing that which would prove instrumental in diffusing the divine influence of Christianity over the largest portion of the pagan world; and by neglecting to do so, we meanly resign a noble and irresistible claim to the gratitude and admiration of our Indian subjects.

If, as we are told, intellectual knowledge keeps pace with political freedom, and that science will spring up if not checked by despotic and arbitrary power, it is manifestly our bounden duty to allow as much freedom to our Indian subjects, as is con-

sistent with the security of our sway. This proposition, it is conceived, will not be contradicted; in which case, the difficulty will be to ascertain the precise degree of restraint that will admit of the vigorous expansion of human intellect, while it checks those violent ebullitions and wild sallies, so inimical to the interests of the people, and so pregnant with danger to the existence of the state. There surely cannot exist a doubt in any well organized mind of the imperative necessity of the executive authority, in that distant country, being armed with absolute and independent power, for the application of which it can only be held responsible by the authority from whence it is derived. Turbulent, wayward, or seditious characters are by no means uncommon; so far otherwise, that they may be said to be the weeds which naturally spring up in all free communities, neither can it be denied that the judicious exercise of authority to eradicate in the germ, a plant so deleterious in its influence, would be more than was the paramount duty of those to whose hands the safety and well-being of our possessions were confided. Upon the other hand it is obvious, that the free exposure of the conduct of the executive authority would be productive of a happy and beneficial tendency, as it would necessarily render it more deliberate, rouse its energies, and stimulate it to a vigorous exertion of its faculties, that would enable it to throw off the sluggish confidence generated by the exemption of its measures from free discussion, which, like an un-

natural action in the human body, taints the sources from whence nourishment is derived, and by rendering the whole mass of fluids vicious, contaminates and deranges the system. Freed from a noxious and infectious principle, a healthy action would ensue, bringing with it a communion of sentiments well calculated to excite the best sympathies of government; and, so far from weakening the tie which connects it with the vast population of the mighty empire over whose destinies it holds sway, the strongest bond of union would be produced, the obedience of the heart, the conviction of the mind—ties more durable, and affording greater stability to the state, than all the chains and trammels the invention of despotism could contrive. Hence, then, it may be allowed, that the utmost limits consistent with prudence should be granted to the press. It is sufficient that government be armed with adequate power to crush a notorious and audacious offender. Such a power, however, should be exercised under a heavy responsibility, and never put forth save when the evil was obvious and dangerous. Justice should never permit punishment to exceed crime, however mercy might be induced to temper its infliction.

## JUDICIAL.

“WE are the masters in India, most happily for India itself; but there are native princes in that country who would gladly recover the absolute authority that their fathers possessed. There are adventurers, and restless spirits, even in greater proportion than in Europe; who eagerly desire to see times of anarchy renewed, that their lawless and reckless ambition may once more have free scope, — the only possible means by which a hostile feeling could be excited in the great body of the people (and in that class especially who are the very sinews of our strength) against an equitable and beneficent government, the blessings of which are felt and understood.”—(Quarterly Review)

The conviction of the truth of this passage should induce us to abstain from every thing likely to rouse the dormant spirit existing in the several sources above described, and engage us to examine most carefully our institutions, for the purpose of expunging whatever we may find calculated to excite, or likely to accelerate, the crisis which must attend

(however it may be susceptible of procrastination) the alarming and uncertain situation in which the British power in India exists. In the course of the present examination we shall briefly notice what is allowed to be the basis of a beneficent government—equitable, and efficient law; consequently, where the happiness of the people is the question, nothing can come in competition with it. Law is often variable, frequently unintelligible, and at variance with the genius of the people living under its influence. It therefore behoves legislators never to lose sight of the principles which should govern all law. Morality, equity, and religion, are the offspring of immutable truth, and according as we adhere to, or deviate from them, we shall be right, or in error. In forming a code for our colonies, the above fundamental principles, together with the natural disposition of the nation, should be kept constantly in view. The manners, customs, prejudices, former government, and innumerable minor considerations should be strictly attended to. The happiness of the people is the great end of all law; from it emanates the right to command, and the obligation to obey; and unless it be secured by their institutions there cannot possibly exist a legitimate pretension to command, nor an adequate motive to obedience. In reviewing our Indian system, it appears to be a fair question, whether the judicial code introduced by the British government is such, as to secure to the people, in a greater degree, the acknowledged object



of jurisprudence, than their own primitive usages? If the affirmative be the case, they are beneficial; if not, the reverse is the fact.

Great and good as our government in India is, its equity and beneficence are by no means so distinctly understood, nor so thoroughly appreciated as we are led to suppose; nay, cannot be, as it is diametrically opposed to the wishes and character of the nations over which it extends. That the princes and spirits alluded to in the foregoing extract do exist, no one can pretend ignorance, who avows any knowledge of the country, the people, their institutions, civil or religious, and the system we have erected upon the ruin of their dearest interests, and fondest hopes, to the imminent risk of their utter annihilation. Let us now see how far this state of things is supported by facts. What are the interests of the people? Before we say aught upon this head, it may be necessary to observe that civil, and religious ordinances are the sources from whence every thing interesting or valuable emanates; and as mind and conscience are materially affected by education, it must follow that the moral standard of every nation upon earth will vary with their polity, ethics, and laws. Hence the reasoning applicable to one state of society, cannot be brought to bear upon another, except by way of analogy. For particular illustration we must be content to examine the people of our colonies, and their interests, by the standard of their own institutions, rather than those of which they are

ignorant, or with which if at all acquainted, they know only to condemn. Let us therefore proceed to an examination of their usages, which are laws, and religion, during the earliest times of which we have any authentic history. Upon turning to their principal books of ethics we find their codes extensive, luminous, moral, and efficient; and although defaced by the accumulated distortions of fantastic fable and superstition, quite equal in all respects to the purposes of justice in civilized society, and have been considered through a series of ages from the remotest antiquity, as the ordinances of a Providence never forgetful of the necessities of mankind.

If this be the case, and the opinions entertained by the greatest legislators, that the best intended legislative provisions are of no effect unless congenial to the disposition, religion, and prejudices of the people for whom they are enacted, be true; it may be deemed unwise to interfere and substitute ordinances at variance with those rendered sacred by their origin, reverend by long usage, and respectable by their efficiency. Supposing Hindoo law compatible with a just administration of affairs, congenial to the character of the people, and all its parts in perfect unison with received opinions, what rational motive can we have for the introduction of our own or other institutions? It may be argued, as it has been asserted, that the Hindoos have no law: this is, however, a mere assertion; for as all law is acknowledged to spring from usage, we are justified in considering

usage to be law. Should this not be granted, we beg to be informed what are the Institutes of Menou? or what are we to designate the contents of the "Durm Shaster," which is literally "Judicial Institutes," and in every way effective and considered by the people as the only true source of wisdom and justice? It can scarcely be necessary to remark in this place, that Hindoo law is inseparably commingled with their religious ordinances, and must necessarily be in a great measure hampered by the sophistry and superstitious ceremonies which perplex the latter, and render it capable of being used most injuriously by an unprincipled and selfish priesthood. It is nevertheless adapted to the state of society, and in conformity with the passions, prejudices, and opinions of the people, which must undergo a total change before the introduction of a new code could be met with other feelings than disgust and indignation. The sympathies and affections common to mankind in all ages and conditions, will not admit of the great body of the people viewing with indifference the subversion of institutions, cherished and revered through a long line of generations, by a code, the introduction of which not only tends to the degradation of every thing sanctified by their religion, but to loosen the bonds of society and render their religious and civil rights an object of reproach to themselves, and of contempt to other nations. Let us look to the code of our Mahomedan subjects, who are so intermixed with the Hindoos as to form but one people, as

far as public opinion, feeling and language can secure a rational identity of interests. In examining the institutions introduced by them upon their conquest, we shall find they embrace a system of jurisprudence, admirably calculated, when impartially administered, to secure a fair and full portion of justice to the various classes of the people, and, under the superintendence of an English magistrate, to afford every guide the judgment can require to ensure an equitable decision, where the points litigated involve no abstract right. It would hence appear that each code is essentially efficient for the preservation of the just rights of a mixed population, whose institutions are so intimately interwoven with religious tenets, as to establish the belief of their divine origin. In such a state of things, ignorant of the manners, habits, and feelings of the great mass of the population as the wisest and best informed of our Indian statesmen and scholars confess themselves to be, it is evident the most rigid caution, the deepest deliberation, and the tenderest concern should preside over all our proceedings connected with the administration of the affairs of a people, whose destinies are subject to the control of British supremacy. In the face of the obvious policy, in opposition to our bounden duty, and in contempt of our declaration to our Indian subjects, that they should be protected in their rights according to the laws and constitution of their country, we have, instead of making ourselves acquainted with them, supplied what we considered

defects by the introduction of judicial aids that are beheld with a disgust bordering on abhorrence. If the Mahomedan laws and usages, like those of the Hindoos, emanate from their religious code, which we all know to be the fact, and if the Hindoo princes of India acknowledged their rule, it would appear to follow, and not to admit of a dispute, that the laws by which India should be governed are the Hindoo laws, except where they have been superseded by the Mahomedan institutions. The fact of the Hindoos having admitted the legality of the Mahomedan sway, is rendered notorious by the circumstance of their princes having seals engraved with a legend in the Persian language, specifying, they are the servants of the reigning Mahomedan emperor; which custom, notwithstanding the Mogul is a mere pageant living upon our eleemosynary bounty, exists at the present moment. Upon the conduct of government depends the continuance and prosperity of the state, together with the lives, property, and happiness of many millions of the human species. Involving such interests, there can be no difference of opinion upon the importance of regulating our local government, so as to preserve our faith inviolate, and secure a full share of reciprocal benefit to each country. There cannot possibly, then, amongst the various subjects relative to India, be one of greater moment to the British nation, nor one more likely to excite an intense and general interest, or to call forth a greater variety of opinions, than our system of judicature in India will

rouse into being, both in and out of parliament, when the period arrives for deliberating upon the renewal of the Company's charter. It has been already observed, that we are bound to preserve to our Indian subjects their rights ; and that their dearest rights are their laws, for upon them depends the security of every thing rendered venerable by time, and sacred by prejudice and a superstitious respect for the observances of their forefathers. There exist in every country two descriptions of law,—usage, and written law, both of which are so blended in India with the religion of the people, that the violation of one involves interference with the other. It is evident, then, that every possible motive combines to dictate the policy of continuing to them the use of their laws when they are found to be commensurate with the ends of justice. Law, to be efficient, should be simple in its construction, be thoroughly understood, be summary in its nature, and immediate in its effects. Where law, which term we always use as synonymous to usage, is found not to answer this manifest purpose, it should be amended, provided its revision be carried into effect with extreme caution and in such places as are absolutely necessary ; but never in opposition to the feelings of the people. It has been remarked by an intelligent writer, that “ premature reforms should never be rashly hazarded, as they will always create doubtful feelings unless conducted with ability and consummate prudence. To reform without the necessary pre-requisites, is to revolutionize

an empire : every contingent circumstance demands serious consideration : an immediate, which must be an intemperate reform, is to involve those in ruin who have not been necessary to the establishment of abuses, but derived from their ancestors a constitution with all its defects. To make such people victims of others' folly would be the height of cruelty. No reforms in any government can produce beneficial consequences, unless the welfare of the community is the primary cause of action, nor can it be reconciled to justice, equity, or even the principles of common honesty, to deprive one set of people of power and riches merely to invest these benefits in a change of men. Reform, both political and moral, is in itself very good ; but reform in the body politic, as well as in the physical, must be gradual and consistent with the preservation of the whole frame. Violence does not lop off the excrescences of a tree, but roots up the tree altogether."

Trifles are, by a bigoted people, always looked upon as matters of deep importance ; they should not be interfered with. When the laws we find are calculated to secure the end in view, they should be tenaciously preserved, and rigidly followed ; to violate, or set them aside, and introduce others only as efficient, is wanton ; tending to frustrate the object of justice, and alienate the affections of the people, whose prejudices and institutions would thus be trampled on by the very government which pledged itself to preserve and respect them. Here

it may be asked, how has the sacred pledge we have given to our subjects been redeemed? Have the laws and the usages we found in the country been preserved, partially revised, or wholly set aside? Are the laws by which they have been superseded competent to the protection of the people, and the punishment of crime? And are they, in their nature and effects, summary and efficient?

We fear the most important of these questions must be answered in the negative. We have not redeemed our pledge; we have not governed them exclusively by their own laws where we could have done so. We have nothing like a competent knowledge of their laws, nor an adequate acquaintance with their social polity to permit of our performing what we have bound ourselves to accomplish. Neither are the laws we have introduced, as they are now administered, competent to the protection of the people, nor the punishment of crime; neither are they summary in their nature, nor prompt in their effect. As a proof of the adequacy of their own laws, we may refer to the reigns of Acbar and Aurungzebe for a practical proof of their efficiency, and to the common practice of their municipal polity for evidence of their fitness; and as our knowledge of them extends, we have no hesitation in declaring them capable of summary proceedings, and productive, if purely administered, of just and equitable adjudication. The propriety of these sentiments will, we trust, be evinced as we proceed.



We here beg to be clearly understood, as intending nothing beyond bringing what we consider defects in our system under the notice of the public. Our present code is a compound of Arabian, English, and Hindoo law, altogether forming a mass of indigested regulations and arbitrary proceedings, either upon the part of government or its servants, not to be paralleled in any country under heaven ; proof of which will be found by the enquirer in Mill's History, and the Fifth Report of the Select Committee of the House of Commons on Indian affairs ; a few instances of which we shall here submit, premising the subject with a quotation from a recent work of considerable merit, which says, " Those who have written on the affairs of India, whether as to the administration of the law, or of the revenue, have, generally speaking, got entangled in the jungles (to use an Eastern phrase), both of Hindoo and Mahomedan antiquity ; some looking to Sanscrit, some to Arabic, to guide them through the labyrinth ; sometimes to Hindoo law, known to be obsolete ; sometimes to Hindoo history, known to be fiction ; sometimes to Mahomedan law, not understood, and sometimes to Mahomedan history, not to be believed."

The above, as applied to the original institutions of the Hindoos and Mahomedans, is certainly not the case ; but, to the numerous and discordant commentaries, is a correct enough picture. Let us take the common law of England, which is the unwritten

law or usage, and then turn to the phalanx of expositions and annotations, and we shall not recognize, in the learned and contradictory pages of our august laws, the simple and efficient foundation upon which the present intricate and incomprehensible fabric has been raised ; but on the contrary shall be forced to acknowledge, that none but those who framed the superstructure are capable of guiding us through the interminable labyrinth, alike the offspring of accumulated wisdom and sophistry.

If, then, this temple of truth requires to have, as officiating priests at the altar of justice, a body of learned and eloquent practitioners unequalled in Europe, for the purpose of distributing equity to a civilized and enlightened people, advanced to the utmost limits of every science that can expand and improve the understanding, what must be the condition of a semibarbarous people, living under its influence, without one individual, however endowed by nature or accomplished by education, in the most remote degree, capable of leading them even into the vestibule of the fane of European idolatry raised upon the ruins of their simple but efficient sanctuary ? Let us proceed to the interior of the edifice, and upon the bench we shall see a judge who may have been from ten to thirty years in the country, who, having acquired a respectable knowledge of Persian (a foreign language to the natives), had been sent to the interior as an assistant to a judge, or a collector, and probably enough, from a

paucity of servants, compelled to act in both capacities, in process of time promoted to a register, and called upon to decide causes to a certain amount; during the period he remains in this subordinate situation, his time is fully occupied by listening to acute litigators, and deciding, to the best of his capacity, aided by an unprincipled Moolvee, and avaricious Pundit, upon such matters as come before him. In the course of a few years he is promoted to the bench, and continues, for the remainder of his life, to preside over an extensive district, with the files of his court crowded with arrears that the longest life could not bring up. Thus situated, he daily accomplishes a meritorious drudgery, harassing to the mind and body in a degree of which none, save those who have performed it, can have an adequate idea. Thus, shut out from all intercourse with the people, except those attached to his court, the most unprincipled of their species, brought up and cherished in fraud, his mind becomes disgusted with those about him, and dissatisfied with a situation in which he daily comes in contact with crime and turpitude that evade his touch and shock his feelings; or continues to act an unsatisfactory part, exposed to the influence of wretches who may have acquired estimation in his honorable and unsuspecting mind. Whilst things are suffering perversion and distortion inside the court, to such a degree as to render detecting and unravelling them next to an impossibility, the numerous vampires outside are

wallowing in the blood of those unfortunate clients, whom oppression and wrong have forced from their distant homes to seek, at the hand of British justice, a redress of grievances that may never reach the judge's ear, or if they do, continue on the files of the court during his lifetime; or peradventure these harpies of the law are employed in extorting money from ignorant and petty offenders, or innocent people, under the threat of dragging them into court on a false accusation or a frivolous pretence, and having them punished and degraded for an imputed crime. The Vakeels or attornies of these Zillah Courts are inferior to none in every thing nefarious, and unprincipled. It is a melancholy truth, defying contradiction, that our courts are generally resorted to by the rich, who can bribe the native officers, to pronounce law agreeably to their wishes; the litigious, who are desirous of postponing justice or delaying the restitution of unlawful possessions; or by a vindictive and disappointed rival, who, in the words of the judge at Patna, "seeks the court as a weapon of revenge;"\* those entangled in the snares spread for their destruction by the wicked contrivance of treacherous friends, or kindred at variance about the possessions of a deceased relative, which they would rather see swal-

\* We are told that men of the first rank in society feel no compunction at mutually accusing each other of the most heinous offences, and supporting the prosecution with the most barefaced perjuries; nor does the detection of their falsehood create a blush.

lowed by the court, than endure the triumph of any individual of a selfish family. The police under these Zillah Courts is no less corrupt than the native law officers, who are generally a pest to society, a scourge to the district, and a disgrace to the government of which they are the unjust and unrighteous servants. During the time of Lord Cornwallis's improvements in this important branch of government were made, such as the abolition of the powers conferred on the revenue officers, the creation of Zillah judges, provincial Courts of Appeal, and the Sudder Dewanee Adawlut, with an appeal to the Governor-general in council, and finally with reference to a certain standard to the King in council ; forgetful that, limiting the amount of appeals, shuts in a degree, the door of justice. It may be objected a standard is necessary to prevent frivolous unfounded appeals. But it may with justice be replied, that, under any circumstances, appeals to the last authority can never become numerous. Let us hear, however, what Mr. Mill says upon this subject.

“ Among the other prejudices of those who, at this time, legislated in India with so much good intention for the people of Hindostan, were the prejudices which owe their birth to the interests, and hence to the instructions of lawyers. Of these it is one of the most remarkable, and the most mischievous, that to render judicial proceedings intricate by the multiplication of technical forms, by

the rigid exaction of a great number of nice, obscure, pedantic and puzzling rites and ceremonies, tends to further the ends of justice. This unhappy instrument of justice was not forgotten in the present reforms : for courts of law provided for a people among whom justice had always been distributed in the method of simple and rational enquiry, was prescribed a course of procedure loaded with minute formalities, rendered unintelligible, tedious, and expensive by technical devices. Of the intricacy and obscurity thus intentionally created, one effect was immediately seen, — that the candidates for justice could no longer plead their own causes, that no one could undertake to present a cause to the mind of the judge according to the nicety of the prescribed and intricate forms, unless he belonged to a class of men who made it their trade to remember and observe them. A system of rules was prescribed for the formation and government of a body of native pleaders, to whom pay was provided by a small retaining fee, and a per centage on the amount of the litigated property.”\*

Such a system naturally involves delay and expense, and recalls strongly to our recollection the old proverb, “ Where there is not cheap and prompt justice, it may be said there is no real justice,” because some cannot purchase it, and the affairs of others will not admit of procrastination, more injurious to their interest than the wrong which they

\* Mill's History of India, Vol. v. p. 425. 2nd col.

may be suffering. Moreover, there being no code of fixed unalterable law adapted to the necessities of mankind, by which the courts are bound to regulate their proceedings, and by which individuals could ascertain a probable termination of their suit, every thing is left to the construction which an ignorant or prejudiced Cazy or Moolvee, an equally ignorant or prejudiced Pundit, puts on an ambiguous and disputed sentence of the Koran or Shaster, or of the equally vague unwritten law of England by a gentleman who cannot have devoted his exclusive study to the attainment of a perfect knowledge of that intricate and complex science, which so frequently sets its profoundest practitioners at variance, and is too often what is caricatured by Swift, in his cause of “Bullum versus Boatum,” or “Boatum versus Bullum,” in his “Law is a Bottomless Pitt,” or the case of “Straddling versus Stiles” of the learned Martinus Scriblerus. The opinion of one of the ablest civil servants of the Company should never cease to influence our proceedings, viz. “The nearer we approach to the rule of granting to all speedy justice without any expence whatever, the nearer we shall, in our judicial system, approach perfection.” Let us see how far our present system approximates this standard. The secretary to government observes (vide Mill’s 2nd edit. vol. v. p. 482.), “The Darogahs of police seldom, if ever, possess any previous instruction as to the nature and extent of their duties, nor any habits of life, calculated to

enable them to perform these duties with effect. A Brahman, a Surdar,\* a Moonshee, or even a menial, is each in his turn a candidate for this situation, of their fitness for which it is easy to judge ; the vices which render them a pest to society, are avarice and every species of extortion." We have it again recorded in the same volume (page 501.), " It is extremely difficult, I believe I may say impossible, to arrange an effectual plan of association and co-operation among the higher orders for purposes of police, or for any other purpose. We have few large towns, no societies exercising or capable of exercising, municipal authority. There are no gentlemen in whose honour and probity, in whose spirit and activity, government can repose confidence. There exists not, between the common people and rulers, a middle order, who feel a common interest in the prosperity of the state, who love their rulers, or are by them respected." Hence it is evident the whole machine is imperfect for want of a class who do not, nor can exist under the present system. A middle class of respectable natives are thrown out of employment ; none but the low and ignorant can accept of our inferior situations, and they are clothed with an authority never given to any subordinate officer in England. The whole frame of our Zillah courts would appear to demand a serious and thorough reform. The intelligent judge of Rajeshahye, as we learn from Mr. Mill, says, " In the Rajeshahye di-

\* A head palankeen-boy.



vision in 1808, every day's experience and reflection on the nature our courts, and the minds and manners of the natives, serve to increase my doubts about our capacity to discover truth amongst them."

Until a middle class be established, who have an interest in the good government of the country and the preservation of the peace, a class capable, by education, and a knowledge of both European and native usage and habits, of being employed with effect, there never can be an efficient judicial or police establishment. Without such a hold, without such an aid, without such a check, what are our means of governing with advantage to the people and security to ourselves? Should any extraordinary occasion, such as external invasion or internal commotion, occur, we shall, when too late, see and feel the want of the class that could or would stand between us and the effects of a crisis which the most sanguine and enthusiastic upholder of the present condition of affairs, would be constrained to contemplate with anxiety and apprehension. Does not this melancholy condition point to the remedy calculated to supply a want so generally felt and allowed? And is not this remedy the removal of those restrictions which operate against colonization under wholesome and salutary regulations? If it is not, what then will answer the wants of government? What panacea will the timid introduce to create a middle class in society, and establish a root in the soil that will enable the British oak,

planted in India, to flourish and remain unshaken during internal and external storms? It may be propped up, but props will avail not. It must be deeply fixed in the soil, or it will sicken, fade, and be laid prostrate by the first hurricane to which it may be exposed, and by its fall add another to the many lessons the world affords of the consequences of half-measures, and a timid temporizing policy, which is, at best, an unwise, ruinous and unmanly adoption of a system of expediency that has never answered any end but to expose the folly of those who resort to it. Let us now see what Sir Henry Strachey, eminent for his talents, experience and knowledge, says, as to the fitness of our present judicial system, to detect imposition or redeem truth from the well of tergiversation in which she lies im-mured.

“ Another impediment, though of a very different nature from those I have before mentioned, and much more difficult to remove, is to me too palpable to be overlooked; I mean that arising from Europeans in our situation being necessarily ill qualified, in many points, to perform the duty required of us as judges and magistrates. Nothing is more common, even after minute and laborious examination of evidence on both sides, than for the judge to be left in utter doubt respecting the points at issue. This proceeds chiefly from our imperfect connection with the natives, and our scanty knowledge, after all our study, of their manners, customs and language. What

judge can distinguish the exact truth amongst the numerous inconsistencies of the natives he examines? How often do these inconsistencies proceed from causes very different from those suspected by us? Often from simplicity, fear, or embarrassment in the witness. We cannot study the genius of the people in its own sphere of action. We know little of their domestic life, their knowledge, their conversation, their amusements, their trades and casts, or any of their natural or individual characteristics which are essential to a complete knowledge of them."

That a class upon which government could rely to furnish information relative to public feeling and popular prejudice, is a desideratum in our Indian society, cannot but strike those who even bestow the least consideration upon this momentous subject. Had a source, calculated to furnish such imperatively called for information, existed, we should not not have to record the dangerous tumults which are frequently the result of legislative acts, at variance with the character, manners and habits of Indian society. That this deficiency has continued to be felt and lamented by the ablest servants of government, has been fully shewn by the records of the state. We shall, however, furnish another opinion in addition to those already adduced, more fully to illustrate the scantiness of our knowledge, and the bad consequences resulting from our ignorance; for which purpose it will suffice to refer to a letter addressed to government in the judicial department,

by the commissioners ordered to enquire into the causes of the insurrection at Barreilly in 1816; in which they remark, "In the remote provinces, particularly where the characters and dispositions, the habits and prejudices of the various and discordant classes of inhabitants cannot be intimately known to government itself; the concurrent opinion of the local functionaries, and the principal authorities, both judicial and revenue, might save government from being unguardedly led into measures which, at no great distance of time, it may be found expedient to retract. It might also be desirable that a mode could be found of learning the sentiments of well-informed natives in regard to the probable operation of any proposed law, in which (as in the present instance) government itself should have no direct interests. On such occasions the local authority might be intrusted to ascertain, from the persons of that description, how far any measures, solely intended for the protection and benefit of the natives, might be likely to militate against their feelings and prejudices." We shall now take leave of this part of our subject with a quotation from that admirable work — Sir John Malcolm's Political History of India, recently published. In describing the revolt in Rohilcund in 1816, he remarks, "The commissioners do not conceal from government their opinion that both our mode of managing the revenue and administering justice, were far from being popular with many of the principal classes in Hindostan, and they

state their belief that many particular laws were highly obnoxious, as interfering with their national habits and social feelings. They further state as an admitted fact, that our courts of judicature in these provinces are viewed as grievances by the higher classes, and not considered as blessings by the lower." "To the latter," they observe, "these courts are hardly accessible from their expense, and nearly useless from their delays."

"The commissioners remark, on that indiscriminate and over-zealous activity with which the trace of public offenders has been sometimes pursued through the agency of common informers, and the summary arrests and domiciliary visits to which men of rank and respectability have been, in consequence, occasionally exposed; this they conceive to have produced an effect far beyond the immediate sphere of their occurrence,"

If that class in society, the want of which is so widely felt, was encouraged, or rather not proscribed, such individuals might be every where found, and the local authorities might derive such knowledge from them as would guide the government in its legislative functions, and furnish ample proof why a law that is beneficial to one province, may prove pernicious to the interest of another. Now as difference of religion has given birth to insurmountable obstacles which effectually separate us from our Hindoo subjects, and debar us from their domestic and unrestrained society, in which we could alone

find opportunities of becoming acquainted with the real feelings of the people upon matters affecting their prejudices; it behoves us not to discourage the growth of that class which, by approximating to an equality with the great body of the people, would naturally, in the common intercourse of society, become acquainted with every essential. Again, it would be accordant to the principles of justice and humanity, as well as infinitely advantageous to the local government, to allow the higher classes of our subjects some participation in the advantages derivable from the many honourable and lucrative employments in its disposal, which might be accomplished with advantage to our judicial, revenue, and police departments, without incurring additional expence. To effect this, a partial change in these departments would apparently answer the end in view; but as prejudice in favour of established rules requires not only the fullest conviction of their inadequacy, but the most disinterested manner of thinking, there will necessarily be many difficulties opposed to the introduction of improvements that, at first sight, may have the appearance of militating against the interest of the European establishment of our Indian government. Nothing, consequently, but the ardent desire of improvement, with a frigid regardlessness of the murmurs of interested people, can effect that reorganization of our executive system, which is indispensably necessary for the perfect administration of justice,

and the greater security of our sway over our vast dominions. It may be objected, that allowing the respectable part of the native population a participation in the administration of affairs, would be laying the foundation of a system calculated to weaken, rather than strengthen, the hold we have at present over the obedience of our native subjects. This, if likely to be the result, would be a sufficient cause for abstaining from the slightest innovation on the present order of things. Unfounded fears have ever been a bar to improvement; all objections, therefore, should be scrupulously examined before they are allowed to operate against the introduction and trial of an apparently wise and beneficial policy. Under the impression, however erroneous it may be, that there is both wisdom and advantage to be expected from a change, we shall succinctly touch, in another place, upon the outlines of measures apparently calculated to correct many of the existing abuses, and greatly aid the judicial servants in the performance of their Augean labour. Melancholy as the foregoing detailed condition of our judicial system in India is, it is not all; for unequal as such an incongruous and ill-adapted code is to the distribution of prompt and effective justice, it is rendered still more defective by the want of servants who can be relied upon to preside over our tribunals. That this deficiency cannot be supplied, we have the best possible assurance, that of the Select Committee of the House of Commons, viz.

“ When any great public duty is to be performed, and the number of performers is found to be too small for the demand, the most obvious of all expedients is to encrease the number.” With regard to this expedient for enabling the government in India to do justice between its subjects, the Committee of the House of Commons made an extraordinary declaration in 1802, “ An augmentation in the number of European judges adequate to the purpose required, would be attended with an augmentation of charge, which the state of the finances is not calculated to bear, and the same objection occurs to the appointment of assistant judges.” What, then, is to be done ? Are the just claims of seventy millions to be set aside, lawless aggression of every description sanctioned, inadequately punished, or not entirely suppressed, because the finances of the state are said to be unequal to the payment of a competent preventive police, and an efficient judicial establishment ? Such a question is assuredly not to be asked in an age mature in every liberal science. It is obvious, that if the easier attainment of justice be essential, the judicial branch of the service should be increased, let the expense be what it may. It ought to be placed in a condition commensurate to the demands of the country, unless some equally efficacious but less expensive remedy can be contrived to meet the necessities of the state. In such a dilemma one would think the establishment of the Panchait system,



which has under all the native governments in India been found most beneficial, might be resorted to with advantage without the slightest detriment to the sacred ends of justice, more especially as the British government is pledged to observe inviolate the rights of the natives. This system, salutary and simple as it is, has its opposers, but it has also enlightened advocates, whose experience has afforded them an opportunity of forming a dispassionate estimation of its merits. The arguments of the former do not appear tenable ; the system appears nearly if not exactly, to resemble in the simplicity and purity of its construction, our English jury ; the gigantic defender of the rights of the people against the sophistries of law, the corruption of wealth, and the influence of power. Why then, since it is congenial to the disposition, adequate to the necessity, familiar to, and revered by every class of society, and unattended with expense, trouble, or delay, should it be withheld from those by whom it is unanimously approved, and whose rights we have bound ourselves to preserve ? It will not suffice to say it has failed in this or that instance, in this or that country ; we must prove its notorious inutility, and failure in India. Unless the decriers of this adequate medium of meeting the wants of the public can do so, they can do nothing. Declamation, however specious and eloquent,—argument, however subtile and ingenious, must yield to the test of experience ; and in this instance, the very organization of a court of

Punchait, offers a full refutation to every objection that has hitherto been brought against it. Previous however to noticing it, we solicit the reader's attention to the opinion of the Select Committee, on the delay of bringing criminals to trial, and the hope expressed that some plan might be introduced to mitigate its effects ; with respect to which, the committee observes, " It is probably not so great as when formerly it was the subject of objection to the then existing system ; it still appears to occur in a degree productive of evil, and which it should be the object of government to remove." In continuation of this subject, the committee further remark, " Expedients have been resorted to for the purpose of relieving the judge, by enlarging the limits of causes referable from him to his register, and to the native commissioners, by limiting the term for appeal. Something however is yet wanting to complete that system of speedy justice, both civil and criminal, which Lord Cornwallis was so desirous of introducing, but which has not yet attained that degree of excellence of which it may be still hoped it is susceptible." We now beg the reader's attention to the following slight outline of the prominent features of a court of Punchait. The complainant and defendant, each choose one, two, or three, individuals to whom the Potail of the village, or the Cazy of the town, adds a foreman, or Mookh, or the litigants themselves fix upon some person to preside over the Punchait, which is generally composed of

the class to which they belong. Its business is to examine witnesses, institute investigations, and is at once deliberative, inquisitorial, and arbitrate. In every village or town, there is generally of each class or trade, one whose eminent and acknowledged integrity has secured him the distinguished preference of being selected to preside as Mookh, over all Panchaits composed of the tribe to which he may belong. The love of fame, and that virtuous ambition which is generally diffused throughout the human species, whether in a civilized, or savage state, is a most effectual guard against a partial or a flagrant departure from equity, by a court thus constituted. The moral consequences attending an individual who has swerved from a conscientious discharge of his duty, as an honest man, and good citizen, are so immense, that nothing could compensate for it. The slightest deviation would become a matter of notoriety; the forfeiture of character would follow, which, to a tradesman, a merchant, or a banker, would inevitably lead to ruin. The writer has presided over three large districts, in which the inhabitants were mixed, and in a great measure degraded, and had no other assistance than that afforded by the usage of the country, and the people; and in justice to both, is bound to bear testimony to their perfect adequacy to the legitimate ends of a good government. Inefficient as they may be supposed, it is satisfactorily established that their very nature, renders them infinitely superior to our own

courts in all petty and litigious disputes between natives. We are told in the Fifth Report of the Select Committee, that more causes remained on the files of the Zillah Courts of Tirhoot, Dacca, Jellalpoore, and Bahar, than had been dismissed from them in five years. This condition of our judicial system would seem to warrant the query which the Court of Directors seriously apprehended, and feelingly express in their Revenue Dispatch to Fort St. George, 26th March 1812: "We should be very sorry that from the accumulation of such arrears there should ever be room to raise a question whether it would be better to leave the natives to their own arbitrary and precipitate tribunals, than to harass their feelings, and injure their property, by an endless procrastination of their suits, under the pretence of more deliberate justice."—Daily experience and the concurring opinion of our best servants answers this query in the affirmative. Let the liberal and enlightened judge of Bahar speak upon the occasion: "The commitments for the breaches of the peace arising from boundary disputes, and other contests concerning landed property, are ascribed to the great, though unavoidable arrear of untried causes pending in some of the courts; since by necessarily protracting for years the decision of suits, it frequently drove the suitors to despair, and induced them to run the risk of taking justice into their own hands, by seizing the object in dispute, rather than await the tardy issue of a process which

threatened to exceed the probable duration of their own lives." Having in the course of this chapter, fully, and, we hope, satisfactorily displayed the inadequacy of our judicial establishment, we shall now advert to the amendment we would, with due and deferential consideration, recommend to the notice of those presiding over our Indian possessions. Instead of petty disputes from distant villages being brought for decision to our Zillah Kutcherries, the Potails, or heads of the villages, should be authorized to take cognizance of them to a certain extent, reporting the proceedings of the Panchait to an authority established for the purpose. No cause should be received by the superior authorities that had not first been preferred to the Potal, and from him, regularly up through each intervening tribunal. By this means, the time of the industrious would be saved, and the knavery of the litigious would be frustrated ; our courts would cease to be overloaded with business ; the contamination that pervades their proceedings would in a great measure, be curtailed ; and its baneful effects confined to its immediate vicinity. Momludars in the several Purgunnahs, avowedly men of property, and respectability, and selected from the first families in the district, with due attention to talents and character, should be nominated, with an adequate salary, and should, in addition to their fiscal duties, be empowered to assemble Panchaits to take cognizance of all disputes commencing where the Potal's authority ceased, and

extending to another fixed sum and crime: appeals lying from the Potal's decree to the Panchaits assembled under the sanction of the Momlutdar, who should report in writing to the Judge's, or Collector's Kutcherry. Here there might be two other officers, one in a judicial, the other in a fiscal capacity, and designated Native Assistants to the judge or collector. Their business should be to receive appeals from the Momlutdar's courts, investigate the matter, and send it up to their superiors. These should be the highest grade, and be nominated by government, and allowed a handsome salary. At this point should commence our European establishment — an assistant judge, and an assistant collector, whose duty it should be to receive and submit all extraordinary cases to their chief, with such matter as might be elicited in the course of their investigation. Such an arrangement could not but be attended by beneficial effects, both to government and the community; its immediate advantage would be the acceleration of justice in every department, and doing away the complaint so common throughout our provinces, of the impossibility of getting through the heavy duties imposed upon our civil servants, and the consequent clogging of the wheels of justice; and in many cases its utter extinction. It would likewise tend to create an upper order in our native society, which would not only improve their moral character, through the medium of example, but serve to bring us more immediately into contact with them, than

the present system, by which, both parties would be benefited by a reciprocal knowledge of each other. We should hence gain a stronger hold upon their affections through the all-powerful motive of self, and their interest in the existence of an establishment in which they had solid advantages at stake.

As a code of good laws, founded upon wisdom, is held to be the noblest present that can be made to a nation; so is an ambiguous code the greatest evil under whose withering influence a people can languish. Let us then conscientiously endeavour to deserve the acclamation of the present generation, and the gratitude of posterity, by revising and correcting our Indian jurisprudence, keeping steadily in view, during the progress of our reformation, that man has in all ages of the world been a slave to habit, and averse to innovation; that the operation of any change is always difficult, and frequently hazardous; that the public mind once convulsed, is not easily tranquillized. Consideration for the superstitions of our subjects, and delicacy in the treatment necessary for their removal; dexterity in seizing the time for introducing changes with precaution, and address in effecting them, will go far to crown our efforts with success. By such a course, England will challenge the admiration and applause of Europe, whilst she secures the affection and devotion of her Asiatic subjects.

Perfection, we are told, is not to be obtained in jurisprudence; we must be satisfied with a pre-

dominant good, and leave our subjects to the enjoyment of their ancient establishments, until their mental acquirements, which we are bound to aid and further, fit them for other constitutions, until which period, we should respect their usages, wherever we find them better calculated to secure the obvious ends of justice, than the more elaborate and more expensive system introduced by a benevolent but mistaken notion.



## TERRITORIAL.

IN conquered countries in Asia the natives cannot set up a claim of inherent right arising out of previous possession, for the very act of conquest subverts all former rights, and transfers the conquered country to its new masters. Policy and expediency however will, no doubt, induce conquerors to respect all public possessions and, as far as is consistent, the properties of their new subjects. This has been the case in India. The Mahomedan emperors seldom interfered with the usages of the people, nor disturbed by sudden and violent innovations the simple, yet efficient institutions long established throughout India, from which the proprietary rights of the cultivator have been set up, instead of his real rights, those of occupancy. This question has been and continues a fruitful source of discussion and disagreement to all who have written upon landed tenure in India. To enter upon a subject that has divided the opinions of our best informed and dispassionate Indian historians and statesman, would be at once useless and presumptuous; as it is not likely that

those who have professed to have taken pains and trouble to obtain data for the opinions they advocate, would be disposed to relinquish them, without that sort of proof which our meagre and equivocal historical information does not pretend to afford. We shall therefore leave the several parties in the undisturbed possession of the opinions which they have so stoutly maintained. As far as information upon this knotty point is required for all practical purposes, it will suffice for our object to take Mahomedan law for our guide in all discussions subsequent to the Mogul conquest; and the immemorial usage of the Hindoos as handed down through each successive generation in matters anterior to that date. With reference to the first, we learn that all conquered countries belong to the Mussulmans, and that the leader of the conquering army, or the king, is merely the guardian of the rights of the community, and that Jagheers are nothing more than an appropriation of the revenue of the land, and that even an alienation of the revenue by the crown is restricted; and although such grants are inheritable, it by no means follows they are transferable. We are further informed by Mahomedan history, that upon the occupation of a newly acquired country, the people were frequently left to the undisturbed possession of the lands, upon stipulating for the payment of a tribute; and that their embracing the faith led to better terms being granted. From this it would appear, the land was held in trust by the sovereign,

on the part of the commonwealth; the proprietary right therefore is virtually, for all practical purposes, lodged in the state. In those parts of India into which the Mahomedan influence found its way without deposing the native princes, we find the system of village communities (for a description of which see "Central India," vol. ii.) universally prevalent, and all revenue settlements concluded upon the part of government with the Potal, aided by the Putwarree and some of the oldest and most respectable inhabitants. The limits of each village are ascertainable by established marks, and the land is not alienable. The right of occupancy by the cultivator being as indefeasible as that of proprietor by the state, Zumeendars or Jagheerdars cannot have a claim for aught beyond the terms of their assignments: the former were generally collectors or farmers of revenue; the latter servants or pensioners of the state. Under native governments there is no individual right acknowledged that has not been derived from the state; and all Zumeendaree claims about which so much has been written, were rather honorary and nominal than real; as they are seldom found to consist of more than a few trifling fees of office of different denominations, indicative of former rights long since usurped or set aside. The claim, therefore, of Zumeendaree rights has no tendency whatever to hamper our revenue proceedings, and, however interesting it may be as an historical speculation, should be disregarded as a claim to the proprietorship of

land. The fees of Zumeendars are their only pretensions; they should be respected, and with them they are generally content. Should any reform in the revenue branch of our Indian government be contemplated hereafter, it will remain with the home authorities to decide between the systems of Lord Cornwallis and Sir T. Munro, either of which must be generally adopted. There is no alternative; we must either admit the purchase of substantial proprietary right, or follow the Ryotwaree system. The former of these has been fairly tried on a large and liberal scale, and has completely failed; instead of proving what it was intended it should be—a blessing to the country, it turned out a curse; previous to the illustration of which, we shall give a short sketch of its origin and progress, and then quote the sentiments of our revenue officers in their own words. Upon Lord Cornwallis's appointment to the governor-generalship of India, it was averred by the then authorities, that our financial system was bad. That the frequent substitution of farmers, and temporary agents, for the permanent Zumeendars, the failure of all attempts to increase the revenue, and the exclusion of collectors from a share in forming the assessments, were all liable to censure. Complaint was made of the heavy outstanding arrears of the last four years' settlement, and of the exhausted, and impoverished state of the country. To improve this condition of things, it was ordered, that the settlement should be made with the Zumeendars, for a

period of ten years, and to be ultimately permanent. That collectors of revenue should be invested with judicatory, and magisterial powers. This settlement with the Zumeendars, who were in fact nothing more than revenue collectors, upset at once the rights of the inhabitants, and the immemorial usages of the country; the Zumeendars never having possessed even the shadow of a proprietary right, which belonged exclusively to the crown, and that of occupancy to the Ryots, and village communities. The proceeding was consequently unjust, and an ignorance disgraceful to the government, which, in lieu of the robbery committed, decreed, that the Zumeendar or collector should give the Ryot a permanent lease of his lands, at such a rate as the Zumeendar's discretion might dictate, instead of enforcing long leases, or making their tenure as perpetual and unalterable as that of the Zumeendar. In default of payment of their taxes by the Zumeendars, Government reserved to itself the power of selling such portion of land as might be equivalent to their arrears; the effect of which was the virtual abrogation of the permanent system, and the introduction of a confusion, uncertainty, and beggary, to which the country had happily been a stranger in the most desolating period of Mahomedan ignorance and despotism. Upon this subject we are informed by that enlightened and profound historian, Mr. Mill, that "Government had established courts of law, and appointed for them a numerous list of forms, through which it required

much time to pass. In their own case, however, it would, they perceived, be highly desirable to obtain speedy justice. To obtain speedy justice they saw it would be absolutely necessary to be exempt from technical forms. To what expedient then had they recourse? To the abolition of technical forms? No indeed! They made a particular exemption of their own case. They enacted, that in all suits for rent or revenue, the court should proceed by summary measures; nay, further, that in such suits the proceedings should be exempted from those fees and expences to which other candidates for justice were appointed to submit. By a high and conspicuous act, more expressive than words, they declared that one thing was conducive, or rather essential to justice; and established, by their legislative authority, the very reverse." We shall now proceed to the opinions before alluded to.

Our revenue system, according to the arrangements introduced by Lord Cornwallis, is thus described by the collector of Midnapore in a letter dated 1812. "All the Zumeendars with whom I have ever had any communication in this and other districts, have but one sentiment respecting the rules at present in force for the collecting of the public revenue. They all say that such a harsh and oppressive system was never before resorted to in any country; that the custom of imprisoning landholders for arrears of revenue was, in comparison, mild and benevolent to them; that it was no doubt the intention of govern-

ment to confer an important benefit on them; by abolishing this custom, it has been found by melancholy experience, that a system of sales and attachments has in a few years reduced most of the great Zumeendars in Bengal to distress and beggary, and produced a greater change in landed property, than has ever happened in the same space of time in any age or country, by the mere effect of internal regulations?

The collector of Burdwan, in a letter to the Board of Revenue says, "The Rajah of Burdwan begs leave to submit to your consideration whether or not it can be possible for him to discharge his engagements with the British government, with that punctuality which the Regulations require, unless he be armed with powers as prompt to enforce payment from his renters, as government had been pleased to authorize the use of, in regard to its own claims; and he seems to think it must have proceeded from an oversight, rather than from any just and avowed principle, that there should have been adopted two modes of juridical process, under the same government; the one summary, and efficient in the satisfaction of its own claims: the other tardy and uncertain, in regard to the satisfaction of the claims of its own subjects; more especially, in a case like the present, where ability to discharge the one demand, necessarily depends on the other demand being realized."

Such a monstrous anomaly in our reformed re-

venue regulations as that complained of, has not a parallel in any code with which we are acquainted. In fact the system altogether appears to be a wanton infraction of the rights of the community, an unwarrantable and forcible robbery of the people for the purpose of establishing upon a rotten foundation an order in society, that had never existed, the constitution of which was incompatible with the existence of and at variance with the sacred and ancient institutions of the country. The pernicious and ruinous consequence of such censurable precipitation, has been widely and severely felt, occasioning in its extensive course animosities and calamities, from which the simple code of their fathers had, up to that fatal period, exempted them. We learn from the history of this much-to-be-reprobated and deplorable innovation, that the beneficent object intended by the projectors of the scheme entirely failed; that instead of creating the intended aristocracy, it but served to enlarge the bounds of desolation, drawing into its irresistible vortex the whole mass of the landed society, confounding and overwhelming all in one common and irretrievable ruin. It is stated that the amount of land advertised for sale in one year exceeded 28,70,000, rupees, and that the process of a civil suit in one of the Zillah Courts for the recovery of arrears of rent, would occupy a longer time than the "ordinary period of human life." Enough has surely been learnt from experience, to induce the most sturdy admirers of the permanent system to



yield to the generally prevailing opinion of its inutility. It is time that the public mind should be made up as to the system best calculated to secure to government, without injuring the cultivator, the greatest advantage that can be derived from the land, consistent with the comfort and happiness of the people; and it may be conceded that the village system, deprived of its frequent vexations, and over-assessments, is the one most consonant with the interest of the state, the comfort, security, and happiness of the cultivator. A few years' experience would, we imagine, serve to afford ample data for an equitable assessment, which should be subject to revision at intervals of five, ten, fifteen, twenty, twenty-five, thirty, forty, fifty, even to one hundred years; but never beyond that period; at the expiration of which a fair maximum, equal to contingencies on both sides might be fixed upon for a still longer period of lease. By the adoption of some such measure the rights and comforts of society would be secured, the government be protected from a fluctuating revenue, and our Zillah Courts freed from the greatest part of their troublesome and difficult duty. In forming such arrangements, government would of course adjust its leases, so as to leave the tenants merely sufficient to furnish stock, and defray labour, together with the ordinary profits of farming. If, therefore, the greatest possible advantage that can be derived from lands consistent with the well-being of the tenant, be the object of those states whose

income is derived from the land, it is evidently beneficial to make agreements with the cultivator, or to have as few mediums between the lord paramount and cultivator as the nature of the transaction will admit; for each mediator must have a profit to enable him to live, and each superior grade will naturally exact as much from its inferior as it can, until it comes down to the cultivator, who is left to languish in poverty, with a bare subsistence. That this must necessarily be the result of all Zumeendaree systems, is now indisputably known. An examination of Lord Cornwallis's settlement 1793 will prove the fact: by far the greater part of those who were vested with lands to which they had not the shadow of a right, have been obliged to sell, wholly or in part, their estates, to make good the defalcation of rents. In consequence of which, land, instead of remaining, as it had continued for ages, and as we found it, the property of the state, paying fees in lieu of labour to those who had charge of and cultivated it, was unjustly and forcibly made the personal property of an individual who was never any thing in the estimation of our Mahomedan precursors, but a collector. The almost universal exclamations which have been uttered against the Zumeendaree system would appear sufficient to warrant a deviation from it, where we have made no promise to the people, and where it does exist, it would prove advantageous to purchase the rights and allow the revenue branch of our system to resume its former character, as any devia-

~~tion~~ from it is considered by the country to flow rather from ignorance than liberality. So long as our settlements are made through the medium of our European collectors, directly with the heads of villages, founded upon an exact knowledge of the arable, cultivated, and waste lands, will our assessments be susceptible of increase, till we arrive at the maximum rent the land can defray, which will not be till all the waste lands fit for cultivation be redeemed ; and as the population is infinitely below what the land can provide for, our revenue will not have arrived at its maximum for ages to come. In the Zumeendaree system, it is the object of the Zumeendar to receive the greatest rent he can derive with the least trouble ; and as there will always exist needy adventurers, ready to sacrifice the well being of others to their own ends, there will necessarily exist a competition for the farms ; and to secure the full benefit to be derived from such an unnatural state of things, short leases must be resorted to, and thus, every intermediate degree from the Zumeendar to the cultivator, is exposed to an extortion, and oppression, which ends only in poverty and ruin. The greater exertions the tenant makes to improve his lands, the more keen in proportion becomes the insatiable avarice of the superior ; the effect of which is displayed by the penury and misery of the actual cultivators. It hence follows, that as the lower classes are deprived of increased means, the increase of population is impossible. Let this vitiated policy

be changed, and increased means will be attended by an increased population; the consequence of which will be the redemption of waste lands, and an increased revenue to the government.

The dense population of Bengal may be set forth as a proof in contradiction of what has been stated; but it must be recollected, that Bengal is in a great measure independent of agricultural profits, and that it is full of British subjects, independent of the great landholders whose tenants they are, and whom they cannot oppress; and that the lower orders are generally labourers and mechanics, less connected with the soil than any other people in India.

There cannot, in reason, be any objection brought forward against such a course, as there is not a state in India, even among the Rajepoots, whose usages have been least affected by the Mahomedan conquest, where the sovereign has not assumed proprietary rights. The Bheels, Meenahs, and Goojers were the possessors of Central India previous to its conquest by the Rajepoots, and where are we to look for their unviolated rights as sovereigns? If abstract opinions of right are to govern our proceedings, let us restore the dominions we have subjugated to the Takoor of Beadlah, in Meywar, the lineal descendant of the renowned Pirthee Raje; and the sceptre of the great Mogul to the feeble grasp of his degenerate and nominal successor, and rest content with a free trade to the several ports in India. Or, let us cease to view this question in any other light than

as an amusing speculation, or historical research. Why investigate a question for the guidance of our conduct, that opposes no obstacle to our interests? Is it not sufficient to respect the usage we find in force? Why should we seek to act upon systems long since forsaken, or upon laws that have been obsolete or nugatory for ages? In considering the merits of each system separately, it would appear that the over-assessment of the Ryotwaree, with the vexatious interference consequent upon an annual arrangement, and the under-assessment of the permanent system, with the insurmountable difficulties the Zumeendars experience in realizing their rents, together with the gross oppression of the under Ryots by the middlemen, are evils which require a remedy. Hence it follows, that what we should attend to, is the interests of government, and the rights of the people, with a view to which we should so regulate our revenue measures, as to preserve both, and secure each a full enjoyment of its legitimate rights, leaning somewhat to the side of the latter. A substantial population is evidently the strength of the government; its opulence and well being is the source from which our exchequer is replenished. A middle course is obviously the one we should pursue.

“ Princes and lords may flourish, or may fade,  
 A breath can make them, as a breath hath made,  
 But a bold peasantry, a country's pride,  
 When once destroyed can never be supplied.”

Next in magnitude, and importance to our land-revenue measures, come our salt and opium monopolies, the produce of which forms a considerable item of our receipts; they consequently merit sober deliberation. It is generally understood, and we believe justly so, that the manner in which our salt is procured, is productive of infinite misery to those employed in its manufacture. Mr. Tucker, in his review of the financial state of the East India Company, expresses his sentiments on our salt monopoly in language which bespeaks the statesman and philanthropist, and they will unquestionably attract the attention of parliament when the time comes for revising our present system.

Agreeably to this gentleman's statement, our profits upon this monopoly average an immense sum, which consideration induces him to advocate the tax, although he admits to a certain extent the objections to which it is obnoxious.

Salt, however, being an indispensable article, and one that must be procured at any hazard, by all classes, should, we think, be left unshackled to the public. Why not leave the greedy cupidity of the capitalist to bring it into the market, and by a fair competition, allow the lower orders a free and unrestrained use of this simple necessary of life. Would not a prohibition to sell the article without a licence suffice, and would not a tax upon such a licence answer our object?

Our opium monopoly is another lucrative branch

of revenue, and although not attended with the loss of life, and actual misery consequent on the other, is, notwithstanding, an oppressive evil to the inhabitants of our own provinces, and a source of certain destruction to the inhabitants of the territories of our allies, as well as a most vexatious interference with their legitimate rights, although guaranteed by ratified treaties. Central India is exclusively an agricultural country, depending entirely on the productions of the soil. The staple commodity is opium. Sugar, cotton, and grain are bulky articles, the exportation of which is attended with an expense which renders them but little, if at all, productive articles for external commerce, as they are undersold by other districts nearer the sea, which have the advantage of water-carriage. Grain too, which in times of commotion was cultivated in small quantities, has, with the other blessings attending peace and security, become a drug ; every district yielding tenfold the quantity required for consumption. In this dilemma, opium presented a certain source of profit to the states, and a comfortable independence to their subjects, till our necessities, aided by the irresistible influence of power, seized upon the only source from which they could with any certainty look to derive a profitable return. Monopolies in their very nature are bad ; they are the resort of an unwise policy, and a thirst for gain. They are well described as being “ the device of improvidence, which, for a present advantage, wastes the resources of futurity.”

We are told that the measures here reprobated, are indispensably necessary for the Company to provide for the payment of a dividend at the rate of ten per cent. Against the validity of such an argument we must protest. Why should one body be pampered with an interest branded by parliament as illicit, and inadmissible to the rest of the nation ?

It is certain there has never been a case made out by the Court of Directors that would justify a dividend of ten per cent.; because the reason assigned—the credit of the Company failing, and the stockholders selling out, and the Company thereby becoming insolvent,—is ridiculous, a mere bugbear to silence the ignorant and alarm the timid. Dividing ten per cent. will not supply funds to meet bills payable within a certain time; it will rather deprive them of ultimate means, by taking away their present resources. The idea of foreigners becoming alarmed at there being no dividend, is so flimsy as not to merit a moment's thought. The debates in the House of Commons on the subject, proclaimed the true state of the Company's affairs, and afforded the nation at large, the best ground upon which an opinion approximating to truth can be formed; added to which, preventing a dividend would be attended with more salutary and immediate consequences to the finances, than a dividend of fifty per cent.; the one would serve to nurse and cherish the means, the other but serves, by lavish expenditure, to increase embarrassment; ruinous in its consequences to the



corporation and the state. The idea that foreign proprietors would take alarm and sell out, is at once puerile and preposterous. The very circumstance includes a purchaser as well as a seller, and where lies the difference to the corporation who holds the share? Scandinavian, Turk, Jew, or Hindoo, it is the same to the state. The sale of shares by foreigners would obviously prove beneficial, inasmuch as the dividend, when shared, would be received and spent in England. Moreover, the dividend appears incompatible with a fair, efficient, and good government; contrary to the first principles of all associations, and substantial and reciprocal benefit. The principle of the dividend would seem to be as unsound, as its practice is pernicious. What advantage does a proprietor of Indian stock derive exclusive of his dividend? None; those about London may, and do, no doubt, derive great advantage by making their votes upon particular occasions serve as a provision for their offspring or connections; but the majority of stock is held by foreigners, or individuals away from London, whose inducement is the mere dividend, and nothing else. Hence it would appear that the sure passage into the Direction was through the favour of the proprietors; consequently the most obvious road to their favor is their interests, that is to say, keeping up or increasing the dividends. Let us see how this is accomplished, either by borrowing at a ruinous interest, or by forcing capital to provide investments from India, which yield little return, the principal

portion of the product being wasted through the countless and endless ducts in which it flows from Leadenhall Street into every kingdom in Europe. Thus this unjust and vicious distribution is fraught with the most perilous consequences: it may justly be considered a nightmare which lies heavy on the bosom of our Indian possessions; and renders its breathing and the circulation languid unto death, requiring, at times, a gigantic struggle to shake off the torpor which threatens its existence.

## COMMERCIAL.

As security for property, and unrestrained freedom of industry, are admitted to be essentially necessary to commerce, it follows that, as the system of our commercial intercourse with India assimilates, or differs from the above admission, it must be acknowledged good, or pronounced defective. To determine which of these results is the fact with respect to our Indian trade, it will be expedient to examine the principles by which it is regulated, and their effects. As we are not sufficiently versed in political economy to guide us through the labyrinth of exchange, labour, and all the arcana of this complex question, we shall avoid the discussion of a subject which can alone be set at rest by public opinion, and remain satisfied with drawing the observation of those interested in the question to a topic, above all others indissolubly interwoven with the general weal. We shall therefore, in this place, merely advert to the most obvious principles of this intricate, and important matter. We are informed by those acquainted with that science, that so long as the re-

venues of a state only, are applied to the production, it is evident it can never exceed a certain amount ; but that when the resources of another state are brought into action, the product must increase in a proportion equal to the increased means. Again ; if the industry of a nation is equal to its capital, the deterioration of the former will diminish the latter. It therefore follows, so long as capital increases, industry cannot deteriorate. We are further told that commercial countries derive benefit only from their imports, and that exclusive bodies, although supported by privileges and monopolies, are the worst media through which a nation can carry on its foreign commerce. It must never be forgotten that when such bodies come to lose in part, or wholly, their commercial character, and assume that of sovereign, they not only become a still more unfit medium, but obtain a power inimical to the best interests of the state to which they belong, and ruinous to that over which they preside. For it is not to be expected they will abstain from using their executive influence, in a manner subservient to their commercial objects. The love of gain is not only the motive for trade, but the life and soul of commercial enterprise, and where authority can be brought to aid it, we must not depend upon the precarious virtue of a trading corporation, that no injuries are committed, nor unjustifiable measures adopted, to secure the greatest advantage derivable from a possession held under an uncertain tenure. Indeed, the

history of all such bodies is fraught with matter amply sufficient to prevent us from dwelling with any thing like hope upon the expectation of finding a noble disinterestedness in the character of exclusive corporations. Hence it follows as a matter of course; that a free trade would prove beneficial to both England and India. Is not then the supineness of the British nation relative to Indian affairs, a surprising and melancholy instance of the entire absence of foresight, where we would be induced to look for the keenest discernment, roused into active being, for the purpose of applying a remedy for the starving condition of our manufacturing population, the encreasing embarrassment of our domestic commerce, and the generally prevailing distress obvious throughout the land? Indian commerce, if placed upon an equality with that of our other possessions, would prove valuable to England in a greater degree than all her colonies. Vast as is the importance of the subject, it appears to be treated with an indifference apparently the result of a questionable policy, at variance with the true interests of the British empire.

If the paralyzing duties laid upon the produce of the East Indies be necessary for the welfare of the merchants concerned in the West Indian trade, and the interests of those collaterally connected with it, it would appear to be a fair question, whether it would be more beneficial to the country at large to appropriate the million and a half which our colonies

cost the nation, to those who would suffer by throwing open our East India trade, and reducing the duties to a level with those of our other colonies, or allow it to remain as at present?

As the time is fast approaching, when this consideration will force itself upon the public attention, we earnestly hope the community at large will be prepared to argue upon the broad principles of common equity, a matter with which the best interests and dearest rights of the nation are inextricably blended.

We are told, by a recent writer of considerable experience and talent, that "It yet remains a problem, whether the possession of India should be considered as a source of treasure or weakness to the mother country." We must, therefore, understand, (and yet it appears incomprehensible,) that the immense importation and considerable exportation by which a great demand for labour is occasioned, is of no advantage, but a mere speculative question — an ideal good — a theory not to be solved by the experience of more than half a century. It is high time that the legislature should inform itself well upon matters of such deep importance, and prepare to decide upon the course best calculated to produce the greatest benefit that England can derive from her connexion with India, and in return, to secure to our Indian subjects the utmost benefit they can reap from their connexion with Great Britain. That such an opinion as that just alluded to should exist

in this enlightened age, is a lamentable illustration of the existence of an ignorance which it is difficult to imagine. Our author, in continuation, observes, "The possession of British India has contributed mainly to augment the resources of England, and to give it weight and influence amongst the nations of Europe." If this remark be true, and apparently it is correct, it would naturally lead to the consideration of a very serious question — Whether England, in the present changed condition of things, could maintain her exalted position amongst the nations of the world if stripped of her Indian possessions? If it be granted that India is of such material importance, it is self-evident that her importance principally rests upon the benefits to be derived from commercial intercourse with her; and if she be the ventricle which supplies our country with the blood of life, we are bound, as we value our existence, to act upon the necessity of self-preservation, minutely to examine every part of our commercial policy, and make such changes as will render our trade beneficial in the highest degree it is capable of proving to both countries.

If the charge of unfitness brought against the Company, as an organ through which our traffic to the East is to be carried on, by the author of "Colonial Policy" be true, it is manifest the continuation of its exclusive privileges must prove highly injurious to the rights of the community, and consequently at variance with the true interests of the nation. If "

free trade would increase the imports of England and India, and if the gain of a nation depends upon its imports, as all political writers tell us, they must mutually suffer from restrictions which necessarily become impolitic, and should be removed. Experience has proved the genius of monopolies to tend to the contraction and perversion of the laws of nature. They confine the copious and bountiful stream intended by Providence for the general good of mankind, within the narrow limits prescribed by the selfish and aggrandizing spirit of corporations, through the medium of an apathetic legislature. If, upon the expiration of the present charter, the blessings of a free trade be given to India, she will, in some measure, be compensated for all the wrongs and injuries she has endured. The British nation, too, will largely participate in the good effects consequent on the throwing open of our Eastern commerce. Competition will be attended by a fall in price, which will naturally lead to increased consumption, and thereby enable us to revise and decrease our excise and custom duties without sustaining loss of revenue. The comforts and conveniences of life will then spread widely amongst an improved and grateful people.

Our possessions in the East Indies, although not really colonial, should, with respect to foreign nations, be considered as strictly so, and all communication with them be conducted upon similar principles. We should then become the carriers of



Europe for India, by which our customs and marine establishment would be infinitely increased. All national restrictions should be done away, and international ones imposed ;—this would render England in a great measure independent of the commerce of Europe, the nations of which would be compelled to purchase from her, and she would naturally become the medium through which the commerce of the continental nations passed to the East, and *vice versa*. Her fleets and merchants would thus spread over the world ; and, as she is the acknowledged mistress of the ocean, so she would become the emporium of all civilized nations : the palpable advantage of which is fully illustrated by the flourishing condition of our trade with the East Indies during the war, and its present deteriorated state. All our possessions should trade freely with each other and the mother country, receiving, through her, the produce of foreign states for internal consumption.

Few things can exceed in magnitude or importance the manner in which the national commerce is regulated ; for upon it the power and character of the nation depends. As it affects Great Britain and its dependencies, there cannot be a more interesting or a more serious question. From the time of Lord Bacon down to the present day, we have been told that monopolies and exclusive companies, although necessary to trade carried on with barbarous nations, are pernicious, in the highest degree, to the true interests of commercial intercourse. Nothing

can be more wantonly extravagant, nor more cruelly unjust, than commercial restrictions and heavy duties. They impoverish and stunt the natural energies and enterprise of the nation in their very source. They undermine alike the industry and morals of the people ; and whilst they impede the progress of the public in the acquisition of comfort, distinction and wealth, they foster and forward the natural tendencies inherent in us to every species of crime that can degrade and pollute the mind. Let the restrictions upon our commerce be removed, our excise laws revised, and the duties on trade be diminished : our revenues will then be secured ; smuggling and illicit trade, with their attendant enormities, will be banished from the land. Nothing can be more pernicious than the manner in which our trade with India is carried on ; the system is alike injurious and intolerable, and at once shamefully and gratuitously lavish of the rights of the public. If that which contributes most to the improvement of the human mind, and thence to the condition of society, be unquestionably that which calls for the most thorough investigation, and as commerce has been traced and proved to be the great source from which intellect and wealth, the foundation of all national glory, flow, it is obviously that to which we should look with the greatest anxiety and most scrupulous solicitude.

## MILITARY.

“It is not difficult to discover, that the present exalted situation of our Indian possessions has much less to hope than to fear from the chance of arms; that in the prosecution of remote wars, the undertaking gradually becomes more difficult, the event more doubtful, the possession more precarious and less beneficial. The present character of our arms will add weight to the dignity of moderation, and we may preserve peace by a constant state of preparation for war.” Whilst we regulate our conduct by the principle of justice, we must shew to the nations upon our confines, that we are as little disposed to endure as to offer an injury. Under the influence of this principle we should look to the present condition of our army.

In contemplating the military branch of the present system, we should never forget that the British dominions in India have been achieved by our native army in conjunction with a very small European force, and that our sovereignty must be upheld by that army; it consequently follows, that the honour,

comfort, and independence of the officers and men of which it is composed, are the principal, if not the sole means, by which its fidelity and devotion can be preserved; and that these essentials, once tainted, the transition to discontent and indifference, and a conviction of having suffered wrong and of having been treated with ingratitude, is a natural and not improbable result. That such a disposition, or even a tendency to it, would be quickly discerned and taken advantage of by the native powers, requires no illustration; but allowing, for the sake of argument, that it remained unheeded, the condition contains seeds within itself that must come, in the course of time, to a crisis, which could neither be averted by cajoling, nor removed by force. It matters little whether the officers or men, or both, are imbued with feelings that cannot but produce the most disastrous consequences; allowing even that they may not be attended by the immediate and utter annihilation of our dominion. Let us, therefore, a moment pause and dwell upon the former condition, and present state of our Indian army; and, as we examine the changes which have necessarily taken place, endeavour to trace their effects. Such a course of proceeding is indispensable, if we are anxious to correct defects.

History informs us, that at the commencement of our career, when our superiority, being new, operated most powerfully, its influence was without limit, and without opposition. That the seat of war in these

early times was at the very doors of our soldiery, who were led by eminent commanders whom they idolized, and officered by distinguished men who were known, and beloved ; that both were associated with their interests, and glory, and participated alike in their dangers, fatigues, and privations. In times of peace their allowances were such as to enable them to lay by an independence, and in times of war ample for procuring every necessary and many comforts. Such was the condition of the men, and that of their officers was by no means less enviable. Present allowances ample, wealth and honors awaiting them, and an early return to their country with a wreath on their brow, and a fortune adequate to afford every rational enjoyment, was an object which cheered every man to exertion, and was not beyond the grasp of any who devoted their talents to their attainment. Let us now view the present condition of the army, and we shall see every thing reversed. Extended dominion naturally removes the soldiery further from home, fewer wars decrease the chance of advancement to rank, or independence, and increase in the opposite ratio the fatigue, and hardships of the field. The long continuance, too, of peace, at half batta stations,\* deprives the soldier of the means of providing for the extra expense and

\* There is not at present a single full batta station for our native soldiers, on the Bengal establishment, and half batta ones are now established for our European officers, which has occasioned a feverish excitement throughout the army.

losses inseparable from a constant preparation for service, in which condition he must be ; neither can it be concealed that Government was more scrupulously attentive to its native army in former times than it is at present. Troops going upon foreign service used to be provided, not with necessaries only, but with luxuries. At present no such attention is paid to their convenience or their wants.\* In proof of this, let us look to some of the last volunteering detachments, and see how our troops were used at Ceylon under General \*\*\*\*\* , who made our Hindoos go to church, and tried to make them feed on salt provisions from our ships ! Let us again look to our army that went to Java, and consider the terms upon which they went abroad, and the treatment they received, and we shall be constrained to acknowledge they were not well used. They went abroad under a promise, either given or implied, that their officers should not be removed from their corps ; that they should, when the service was over, be immediately brought back. How was this pledge, that should have been considered sacred, and preserved inviolate, redeemed ? Their officers were removed according to contingencies, and they were not relieved, when they might have been, nor so soon as they had reason to expect ; the result of which was, they conceived their old officers to have been re-

\* The conduct of the Madras Government, under the late Sir T. Munro, to the Madras troops in Ava, forms a happy contrast to that of the sister presidency.

moved for the purpose of clearing the way to their being kept upon the island altogether. This impression led naturally enough to the contrivance of means to effect their deliverance from what they considered banishment, which they viewed with feelings aggravated by their love of home, and religious prejudice. The most obvious road to the attainment of the inestimable object in view, in comparison with which life was below consideration, was joining the standard of the deposed Rajah, under a positive stipulation, that when they had restored him to his lost dominions, he should restore them to their native land. In such a compact the most microscopic eye cannot detect the slightest tendency to a spirit of turbulence or rebellion, and every act to which their feelings impelled them must in fairness be attributed rather to the temerity, and bad faith of Government, than to a violent and insubordinate disposition amongst themselves. Their intention was, however, happily discovered; the ringleaders were seized, tried for mutiny, condemned, and some of them executed. The next instance we shall notice shall be more recent, that it may come home to the feelings more than circumstances long past, perhaps scarcely known, or long since forgotten, can possibly do. Our Burman war, it is well known to every person, however slightly acquainted with Indian affairs, has been carried on under the severest trials and privations to which a soldier can be exposed. Some native troops stationed at Barrack-

pore were ordered to march to the theatre of war; a demand was made for the necessary aid, and not acquiesced with; obedience was peremptorily insisted upon; the troops remained sullen, and the dreadful catastrophe that followed is unhappily too generally known. They had no old officers with them, their colonel but just arrived from Europe, and previous to his joining them had long been employed upon the staff, and was of course a stranger. The other officers of the 47th were generally unknown to the men, in consequence of the many changes and removals attending the formation of the several battalions composing the army into regiments. At such a moment, and under such circumstances, would not the peculiarity of the exigency have warranted, if it did not imperatively demand, a minute and impartial investigation of a matter pregnant with present and future consequences of the last importance to our Eastern possessions? Were effectual means taken? If so, why not have published them, if they served to fix the brand of ingratitude and mutiny upon a refractory and licentious soldiery, that measures of such uncommon rigour might go forth into the world accompanied by some show of justice, and supported by some appearance of necessity? No such proceedings were ever published; nay, the Gazette of the following week announced to the world and the deeply injured army, the concession of what their slaughtered comrades had required. Is it possible to conceive an act of such



inconsistent imbecility? If the regiment had required that which was improper, it should never have been conceded; on the other hand, if it demanded a right or a requisite, it should have been freely acquiesced in, and the unwise proceeding would never have taken place, which at present sullies the reputation of an army, to whose valor and devotion we owe the conquest of our splendid empire, and whose deeds and fame must go down to posterity commingled with the glory of our country, so long as its remembrance shall endure.

The recollection of such fatal precipitation must continue to operate as an antidote against that affection and loyalty which is the very corner-stone upon which the mighty fabric we have raised in the East must be upborne. That the Indian army is entitled to the gratitude of our country cannot be denied, when we contemplate the deeds it has largely contributed to achieve, in perpetuation of the triumph of the genius of England in that distant land, the conquest of which bade defiance to the proud ambition of the Assyrian, the Greek, and the Roman. It therefore behoves us to recollect that an army, whose character has recently been exposed to obloquy, may at some and possibly at no distant day, be called upon to defend our sway against the gigantic efforts of the Czar of Russia. The policy of Peter the Great, and Catharine the Second, still continues to influence the councils of Saint Petersburg, and England may yet be compelled to meet

her in hostile array on the plains of Persia, or the shores of the Caspian. That this ill-timed concession was viewed by the army at large, rather as a right forcibly wrung from unfeeling masters, than as a generous boon freely given by a liberal Government, careful of the welfare, and anxiously solicitous as to the comfort of its servants, cannot be doubted. Such acts are these quite enough to force a conviction upon the most sceptical mind, of the necessity of some radical change in the system by which the army is regulated and conducted. Let us see how the European part of it fare. For the perfect comprehension of its actual condition, it will be indispensable that we advert to its former situation, with reference to that of His Majesty's army serving in India. In former times the number of European officers in the army was comparatively few; and although their promotion was slow, they enjoyed the substantial equivalent of handsome allowances from the time they entered the service, neither was there any obstacle to their attaining the highest rank to which it was possible to arrive in the Company's service. At present the officers are trebled, their pay, allowances, and the advantages of staff situations reduced to a mere sufficiency for their necessities, — an insurmountable bar to their rise in the service established, and every avenue leading to the hope of being ultimately able, should they even survive the vicissitudes of an Indian climate and the common accidents of life for half a century, to visit

their native land in time to drop into the grave, essentially removed far beyond the reach of the most ardent spirit, and sanguine expectation.

Let us view the career of two young men proceeding at the same time to India, one an ensign in His Majesty's army, the other a cadet in the Honorable Company's service. The former of these can obtain the rank of a lieutenant-colonel in eight years, and that, too, by various means, either in the natural course of promotion, by purchase, family interest, or by brevet, which last includes three several roads to that rank, and two out of three even reach the rank of full colonel. Brevet is given for achievements in the field, so that it is not only possible, but sometimes occurs, that these young men commence their first campaign together. In the same field, within a few hundred yards of each other, they are both favored by fortune, and perform deeds which attract the notice of their commander-in-chief. One is rewarded by promotion to a lieutenancy, the other to a petty staff situation, such as the adjutancy of his regiment, when vacant, or a sub-assistant on the general staff. They again meet in the field under the partial influence of fortune, and are again distinguished above their associates in arms. Promotion to a company rewards the lieutenant; the ensign stands fast; he cannot be placed over the heads of those above him in the department; barren praise is his obvious and sole reward; he is however yet young, with a buoyant spirit, and a vigorous constitution,

which is sufficient to support the lofty aspirations of a noble mind. He again enters the lists, borne on the wings of hope, and impelled by emulation, and again meets his early but more fortunate companion in arms, and is again with him advanced in fame. A brevet majority and companionship of the Bath is the merited reward of His Majesty's officer, whilst his no less meritorious comrade continues stationary, or is possibly advanced in the regular course of promotion to a lieutenancy. The advance of the former is accelerated by the claims he derives from the honors he has achieved, and his nomination to a deputy adjutant-generalship, or of a deputy quarter-master-general, gives him the anxiously sought rank of lieutenant-colonel. He may then get the command of a regiment at home, and enjoy, in the spring and prime of life, independence in his native land, amidst his kindred and his friends, and look forward to reaching, in the summer of his days, the elevated and enviable rank of a general officer, by which period his early friend has reached, after a distinguished and honorable service of thirty years, the rank of a lieutenant-colonel; about which period another fortunate officer in His Majesty's army, who has served eight years, arrives upon the same day at the rank to which the Company's veteran soldier has just risen. What is the result that may now occur, and what is the result that must inevitably take place? The former is His Majesty's officer, and may, either by interest or a glorious chance, be promoted to be an aide-de-camp

to His Majesty, which gives him the permanent rank of colonel at once. What is now the second inevitable occurrence? Why, both officers being promoted to lieutenant-colonels' commissions on the same day, His Majesty's officer must take the precedence of the Company's whenever a brevet may be issued by the Crown, notwithstanding the latter arrived at his lieutenant-colonelcy in thirty, and the former in eight years. Here even this paralyzing supercession does not cease, but with a steady and undeviating step pursues its victim till the scene is closed by a shattered constitution, superannuation, and a broken spirit, in which condition he is driven from an ungrateful service in a foreign land, to his native country, where, when he arrives, he will be an isolated being, without rank, and without fortune, full of years, and weighed down by misery. Let us see for a moment the situation of His Majesty's soldier, who retires from the active duties of his profession, for the purpose of enjoying in tranquillity the remaining years of his life. His name, although he may be out of the army, continues in the list, and he retains by courtesy the rank he obtained in the service, and is received accordingly at the court of his own sovereign, as also at every court in Europe. But as if this long string of irreparable grievances was insufficient for the Company's officer, he is, whilst he continues in the performance of the duties of his profession, exposed to every degradation that supercession and a naturally partial commander can heap

upon him. In illustration of which, let us refer to the two most recent occasions—the Burmese war, and the siege of Bhurtpore,—and it will be found that the complaint herein made rests upon a foundation that is not to be shaken. An assertion may be refuted, but a fact is irrefragable. Who were the commandants of the divisions under Colonel Sir A. Campbell? They were generally officers of His Majesty's army. If this be termed an unjust and a cruel partiality, and it be asked why such undue favor was shewn to the officers of one service in prejudice to the rights of those of the other, it may be replied that there was no officer of rank in the Indian army present in the country, to whose talents, experience, energy, physical capacity, and character, such an important trust and arduous undertaking could have been confided, with any reasonable expectation, that the result would prove triumphant. Such a preposterous and unjustifiable reason could not be brought forward, as General Sir John Doveton, of the Madras army, was upon the spot; and the qualities of this distinguished officer of known talents, energy, experience, physical capacity, and knowledge of the character of the elements of which the army was composed, pointed him out as an individual eminently conspicuous and qualified to lead our arms to conquest in a foreign land. But, alas! he was unfit, and rendered so by the commission which he bore; he was a Company's officer, and that alone was sufficient. It therefore followed as a matter of course that as the chief was, so must

his aids be of the royal army. With the merits or conduct of the war we have no business in this place; our object is to draw the consideration of the public authorities to the degraded condition of the Indian army. Let us now turn to Bhurtpore, and we shall find a system of favoritism as unworthy, unjust, and pernicious in its chilling effects upon the hopes and energies of the Indian army, as that we have just left. Two king's major-generals were selected to command, under the commander-in-chief; could there have been a Company's general selected of sufficient talent to entitle him to a command? To this cruel and galling query we can answer in the affirmative. General Sir Gabriel Martindell was on the spot, and commanded at Cawnpore at the time that General Nichol was brought from Calcutta, a distance of one thousand miles. If this is not sufficient, let the treatment which that distinguished and celebrated veteran, Colonel Adams, experienced, speak the rest. He was in command of the citadel, with native troops; precautionary means had been adopted by him; the peace, lives, and properties of the people as well as the honor of the British arms, were secure under his vigilance. The distinction of such a command was deemed beyond the deserts of the colonel and his gallant band. His Majesty's 14th Foot, under Colonel M'Combe, (a junior colonel too) was selected; they marched in, with colours flying, the morning after the place had been taken. The natives under Colonel Adams marched out; the citadel and

part of the city was partially plundered. Such acts require no comment; the most culpable indifference is seldom blind to its own interests; and as those of the public are inseparable from the rights and honor of the Indian army, it is to be expected that the natural desire to preserve the one, will lead to the protection of the other. It is manifest our possessions were won by the valour and devotion of the army, and by it alone can our dominion be retained. Let it be divided, let dissensions be sown between it and His Majesty's army, and our empire will soon pass into other hands, or the numerous nations over whose destinies the genius of Great Britain presides, may be roused into action, and stimulated by the discord observed to reign throughout our army,—be induced to make a desperate struggle to regain an independence, the loss of which they have never ceased to mourn, and for the attainment of which they will never allow a favorable opportunity for making the attempt to pass by unheeded. The time therefore may arrive, and is probably not far distant, when the English nation (unless some remedy be soon applied to the existing evils) may be compelled to lament in the bitterness of unavailing repentance, its unaccountable apathy, and infatuated indifference to the unwise and invidious distinctions introduced into an army, upon whose unanimity and devotion it can alone repose in security.

In calling the notice of the public to this vitally important question, we shall insert in this place a



short extract from the speech of Colonel Cathcart, in the debate upon Mr. Chancellor Pitt's Bill in 1784, which every way merits the mature consideration of the statesmen, who preside over the councils which regulate the government of our Indian possessions. That able officer justly remarks, "Either, Sir, motives of humanity are to induce us to restore to the natives of India those territories which from avarice or ambition we have wrested from them, or motives of policy are to predominate, and we are to attempt by arms to preserve those distant provinces. What, Sir, upon this latter supposition, can be of more immediate consequence than the regulation of those armies which we must maintain, to secure the fidelity of many millions of subjects, whose hearts, God knows, have no reason to be impressed with gratitude for favours already received under our government ?

"Or, what, Sir, calls more loudly for the exercise of our humanity, than the consideration of what comforts we can point out for those soldiers who have embarked for that distant part of the world, in what it was their duty to consider their king's and country's cause ? While we talk here of zeal for the welfare of the state, they have proved theirs by the sweat of their brows, and with their blood."

Our Indian army can never continue in its present state ; it must either improve or deteriorate. It is now destitute of officers of rank, and will very shortly have nothing but old officers in subaltern

situations in its ranks. At present even, we are, under the necessity of bringing lieutenant-colonel, commandants into situations that should be filled by major-generals, in the possession of both mental and physical capacity. It is really melancholy to observe the systematic indifference with which the interests of our Indian army are treated ; neglect is fast eradicating every sentiment that should be cultivated in a soldier's mind, and every desire that should be cherished in his heart, — the love of fame, the desire of distinction, gratitude to his employers, and devotion to their service ; without these he will dwindle into a mere mercenary, and prove but a broken reed in the hour of danger. It is obvious, then, that the Indian army must either be reorganized or transferred to the crown, and which of these alterations is to be pursued should be examined with a deliberate, patient and unprejudiced judgment.

In arranging for the improvement of the European officers of our army, the situation of our native officers should not be passed over. We should profit by the example we have before us in the French army previous to the revolution, in which the gentry of the land were debarred rising to rank, emolument, and command. The European portion of our Indian armies may be, in some measure, likened to the noblesse of the old French armies ; and assuredly, the day will come, unless timely provision be made, when the native gentry of India and the subordinate

native soldiers of our Indian army, will avail themselves of an opportunity to acquire by force, rights in which our policy denies them participation.

We shall conclude this part of our subject by recommending to the consideration of those whose duty it is to watch over our Indian interests, the maxim said in Montesquieu's *Persian Letters* to have existed in France in his time. "We have a maxim in France," replied he, "never to promote officers whose patience hath languished in subaltern offices; we regard them as persons whose understandings are straitened by a narrow sphere of action, and who, accustomed to little things, are become incapable of greater."

Never was there a wiser maxim, nor can there be a more obvious reason for accelerating promotion instead of thwarting it, as we do in our Indian army. We should court its affections, and conciliate its feelings, rather than alienate the one and violate the other, as is done every day by supercession and neglect.

The foregoing sheets were ready for the press before we happened to take up the 70th Number of the *Quarterly Review*, in which, to our astonishment, we read as follows, in page 490.

"That the Sepoy officers and soldiers were afraid of the Burman, there cannot be the smallest doubt; and, indeed, throughout the campaign they never could be safely trusted to lead in an attack, although, in defending a post, they always behaved

well. In the defence of Kemmendine they deserved great credit for their steady behaviour; but in the attack of the stockades on the 15th December, after their retreat from before Rangoon, when ordered to the assault, the whole battalion actually laid themselves down, and the British troops marched to the assault over them." Again, in the same page, we find the following:—"Colonel Smith was ordered on an expedition a few miles from Rangoon, and from his high opinion of the Native troops, he requested that they alone might be employed in the enterprize. Sir Archibald Campbell indulged him, and the consequence was, that the Burmans, seeing there were no white faces, fought most courageously, and the Sepoys, unable to stand the assault, were panic struck and totally defeated." In page 500 we find stated, "We have strong grounds for believing that the unfortunate business at Barrackpore was, in a great degree, owing to the superstitious dread of the Burmese and their charms, nay, that this idea was not confined to the regiments then and there present, but at the time pervaded the Native soldiery to a very extraordinary extent. Yet these are the troops to whom we mainly owe, and by whom we hold an empire over seventy or eighty millions of people."

We fairly put it to the public. Is it probable that such an act of pusillanimity as is above asserted as a fact, could have occurred in the face of an army and escape observation? Is it probable that, being

known; it would have been kept concealed? Is it probable that a public staff-officer, in the family of the commander-in-chief, his assistant in the political department, in detailing the proceedings of the army, in which an act, casting indelible disgrace upon the service, occurred, would have been silent upon it, or dared to refrain from expressing the indignation felt by the whole of the troops at such dastardly and ignominious conduct, feeling, as he must have felt, had it taken place, that concealment, in some cases, is as gross a dereliction of the duty of a narrator, as falsely asserting that which he knew to be untrue? Is it probable that a general officer, commanding an army in which a circumstance, pregnant with the utmost danger, threatening even the existence of the state, would presume to keep government in ignorance of that which it deeply concerned it to know, and which it was his paramount duty to report? Or is it probable that government, upon being made acquainted with an act which must necessarily have shaken the confidence hitherto placed in an army whose reputation for zeal and courage had never been questioned, would have connived at its own ultimate annihilation, by abstaining from visiting with exemplary severity a cowardly and debased body which had abandoned every claim to consideration, and rendered itself obnoxious to disgrace and punishment? With so many concurring improbabilities opposed to the Quarterly Reviewer's *fact*, we shall leave it to its fate.

The next incident, Colonel Smith's having requested native troops alone to be sent on an expedition a few miles from Rangoon, is given on authority that may "be relied on," in a manner so totally different from the dispatches as published by government, as to render any elaborate notice of it in this place worse than useless. If we are not mistaken, the expedition a few miles from Rangoon was at a distance that occupied a march of twelve hours, the road, for the most part of the way, lying under water; that the enemy, in numbers, were found in a fortified position, and that Colonel Smith's detachment was unfurnished with guns, ladders, or any necessary for an escalade; and that, instead of a few miles, and in a known spot, the enemy was found at so great a distance, that the troops must have been exhausted by their fatiguing and distressing march before they were exposed to the enemy's fire from behind inaccessible stockades. Is the disastrous result of this expedition, or the successful one of the next day, composed entirely of Europeans, equipped with guns and ladders, a matter of astonishment, or a fit occasion for decrying the failure of an expedition which it was morally impossible could succeed under the circumstances of the case? This was, we believe, the second time the native troops had been detached by themselves, and without guns or ladders, to dispossess Burmese troops in positions strongly fortified.\* Sending

\* See the account of Colonel M'Dowell's expedition.

troops on a service in which defeat is nearly certain, would appear an admirable method of depriving them of confidence in themselves, and inspiring "a more than superstitious dread" of the result of attacks which it must have been evident could not succeed. We need not say any thing more upon Colonel Smith's affair. Let the authority that "may be relied on" be produced, until which time the public will pause before it yields credence to mere assertion.

We now come to the last charge brought forward upon "strong grounds," not indeed against any particular body, nor any particular presidency, but an unqualified accusation against the whole "native soldiery," and a more heartless libel never issued from the press.

The affair at Barrackpore had better not have been alluded to. It is wise to abstain from agitating circumstances that cannot but produce evil consequences; and (to use the words of the late Mr. Huskisson) "not to descend into the arena where honour is not to be won, and where to be vanquished would be disgrace indeed." It behoves those who have had any active concern in participating the tragic event, so cruelly and unjustifiably perverted, to check the folly that would force a discussion, fatal in its effects to the characters of more than those who fell in that calamitous catastrophe. We shall take our leave of this accusation with the remark, that an enquiry into the cause of the occurrences of that fatal day

was instituted. Let the proceedings be given to the world, and if the memory of those who paid the penalty of their crime, with their lives, deserves the opprobrium so lavishly poured upon them and their brethren in arms, we shall retire with sorrow and humiliation from a cause justly meriting the brand of eternal disgrace.

We now come to the climax so exultingly put forth, " Yet these are the troops to whom we mainly owe, and by whom we hold an empire over seventy or eighty millions of people ! " We can only reply, Yes, they are the troops, by whom England won, and with whom she must maintain her mighty dominion over seventy or eighty millions of people ! Let the above exclamation, issued in the imagined triumph of arrogance, emanate from whence it may, it can only be viewed as a puerile attempt to traduce the reputation of those, who, as soldiers and men, are beyond their imitation, and above their reproach. .

It is but lost labour to attack the unsullied honor and gallantry of the native soldiery ; for the descendants of men who followed a Clive, a Lawrence, a Coote, a Cornwallis, a Lake, and a Wellington, condemn scurrilous abuse, and may fairly challenge the admiration of all whose applause is worth a soldier's ambition.

Yes, these are the troops who followed those renowned captains with a spirit upon which they could and did rely ; and their descendants of the present day, would follow with unabated ardour,



and undeteriorated qualities, any commander who understood their character, respected their prejudices, or regarded their affections.

But let Government, under the fatal spell of infatuation, select officers to command them, whose characters are different from those of the great men, the recollection of whose fostering care, personal worth, and splendid deeds, is fondly cherished by a grateful and admiring posterity; and England may yet have to chaunt a requiem over the departure of that affection to which she owes her dominion in the East.

Sensible of the difficulty of restraining the expression of feelings wantonly violated, we would willingly obey the dictates of a natural repugnance to refute party writers; but when the misrepresentation of a meritorious and highly distinguished body, whose services and blood have raised a proud monument to our country's glory in a distant land, is abruptly forced upon us, we cannot refrain from expressing our abhorrence of such aspersions.

THE END.

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